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LAWS WITH REGARD TO BANKS, TRUST COM-
PANIES AND BUILDING AND
LOAN ASSOCIATIONS

Including the criminal statutes affecting violations
of such laws, the usury laws, and the laws with regard
to taxation of such corporations.



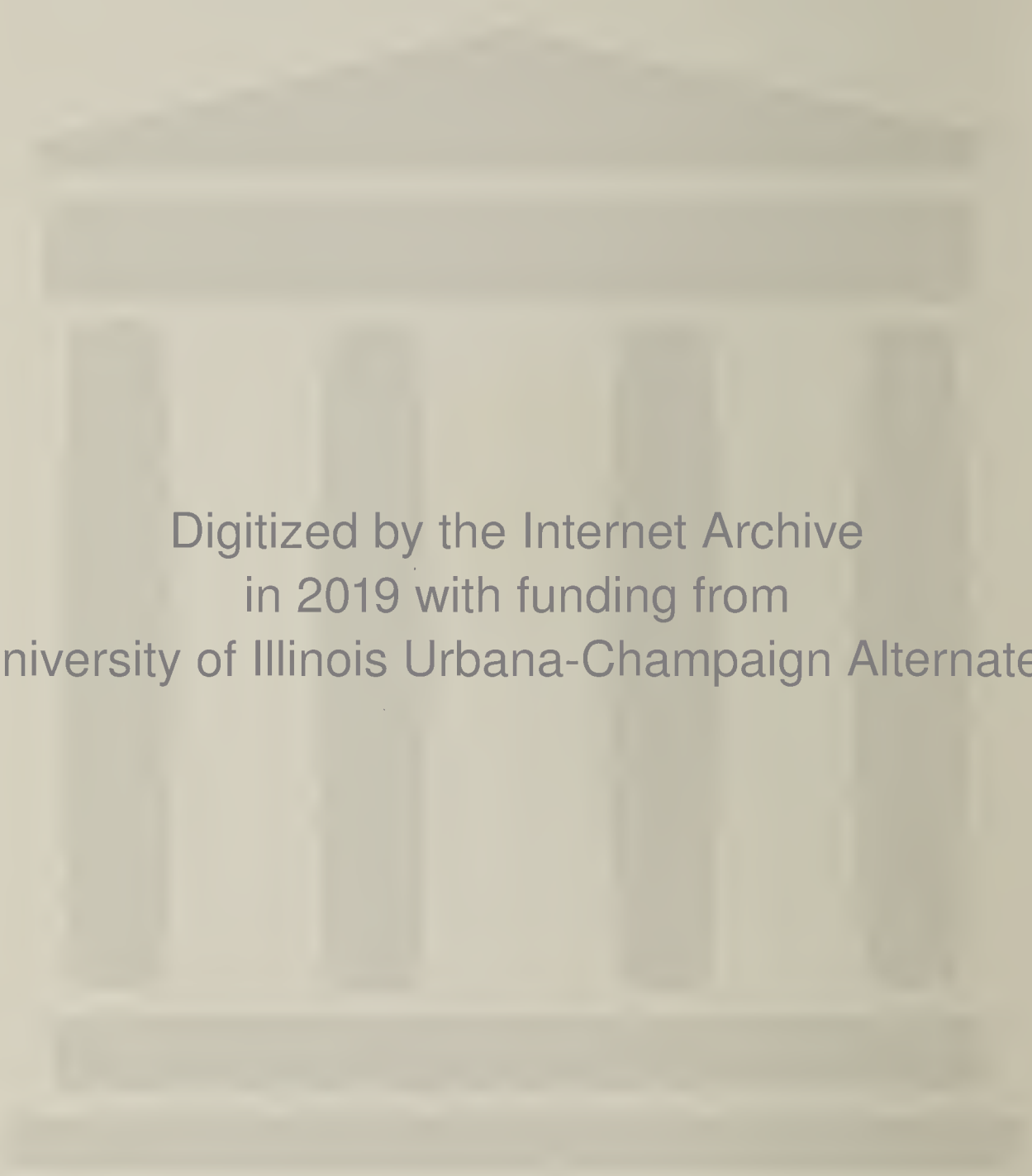
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M. W. McKenzie
Attorney for the State Banking Department,
formerly Assistant Attorney General.

June, 1926





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O K L A H O M A

**Laws Relating to Banks, Trust Companies and Building
and Loan Associations**

C O M P I L E D

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FOREWORD.

The laws with relation to banks, trust companies, and building and loan associations may be found in the Revised Statutes of 1910 and the various acts of the legislature beginning with the year 1913 and ending with the year 1925.

These various laws are compiled for the convenience of the State Banking Department. On account of the many changes and the numerous amendments to these laws, it has not been possible to follow the order in the Compiled Oklahoma Statutes of 1921. The annotations, however, to this last statute are included in the history.

In annotating this statute, I have tried to follow the cases which deal exclusively with the Sections of the Statutes under consideration. I have made an effort to add to the annotations the various opinions of the Supreme Court touching these subjects, so far as the direct Statute may be involved.

M. W. McKENZIE.

BANKS AND BANKING

ORGANIZATIONS

1. **Manner of Organizing.** Any three or more persons approved by the bank commissioner, a majority of whom shall be residents of this State, may execute articles of incorporation and be incorporated as a banking corporation in the manner hereinafter provided. Said articles of incorporation shall contain the corporate name adopted by the corporation, which shall not be the same name used by any corporation previously organized, or any imitation of such name; the place where its business is to be conducted; the purpose for which it is formed; the amount of its capital stock, which shall be divided into shares of the par value of one hundred dollars each; the name and place of residence of and number of shares subscribed by each stockholder; and the names of the stockholders selected to act as the first board of directors, each of whom shall be a bona fide holder of at least five hundred dollars of the stock of said bank, fully paid and not hypothecated; the length of time the corporation is to exist, which shall not exceed twenty-five years; and such other matters not inconsistent with law as the incorporators may deem proper. Said articles of incorporation shall be subscribed by at least three of the stockholders of the proposed banking corporation and shall be acknowledged by them and filed in the office of the secretary of state, and a copy thereof, duly certified by the secretary of state, shall be filed with the bank commissioner. The secretary of state shall issue a certificate in the form provided by law for other corporations, and the existence of such bank as a corporation shall date from the filing of its articles of incorporation and the issuance of certificate of the secretary of state, from which time it shall have and may exercise the powers conferred by law upon corporations generally, except as limited or modified by this chapter: Provided, that such bank shall transact no business except the election of officers and the taking and approving of their official bonds, the receipt of payments on account of subscriptions of its capital stock, and such other business as is incidental to its organization, until it shall have been authorized by the bank commissioner to commence the business of banking as hereinafter provided.

History. Sec. 4114 C. O. S. 1921; R. L. 257; S. L. 1907-8, p. 125.

Charter granted under old law was not repealed by this act. *Smock vs. Bank*, 22 Okla. 825, 98 Pac. 945.

Purchaser of stock may compel bank to transfer it.

Ardmore Bank vs. Mason, 30 Okla. 568, 120 Pac. 1080.

Bonus note by bank to railroad company **ultra vires**.

Ry. vs. F. & M. Bank, 21 Okla. 322, 96 Pac. 765.

Bank in process of organization may receive subscriptions and funds for its capital stock prior to obtaining authority to do business.

Reeves vs. Noble, 88 Okla. 179, 212 Pai. 995.

2. Certificate of Organization—Reorganization. When the capital stock of any bank shall have been paid up, the president or cashier thereof shall transmit to the bank commissioner a verified statement showing the names and places of residence of the stockholders, the amount of stock subscribed and the amount paid in by each, and the bank commissioner shall thereupon have the same power to examine into the condition and affairs of such bank as if it had before that time been engaged in the banking business; and if the commissioner is satisfied that such bank has been organized as prescribed by law, and that its capital is fully paid, and that it has in all respects complied with the law, he shall issue to such bank under his hand and seal, a certificate showing that it has been organized, and its capital paid in as required by law, and is authorized to transact a general banking business; Provided, that in the reorganization of a bank or trust company the assets may be accepted in lieu of cash at their actual value.

History. Sec. 4115 C. O. S. 1921; R. L. 258; S. L. 1907-8, p. 126.

Duty of Bank Commissioner under this section to issue charter when bank is organized and capital paid in. Smock vs. Bank, 22 Okla. 825, 98 Pac. 945.

By section 8 C. 137, Sess. L. 1923. Issuance of certificate rests solely in Commissioner and Board.

BANKING CORPORATIONS—DEPOSITS—LOANS

Section 1. That Section 4116, Compiled Oklahoma Statutes, 1921, be, and the same is amended to read as follows:

“Section 4116. A banking corporation organized under the provisions of this chapter shall be permitted to receive money on deposit, and to pay interest thereon, not to exceed the rate that may from time to time be fixed by the bank commissioner, as the maximum rate that may be paid upon deposits by banks in this State; to buy and sell exchange, gold, silver, coin, bullion, uncurrent money, bonds of the United States or this State, or of any city, county, school district, or other municipal corporation thereof, and state, county, city, township, school district or other municipal indebtedness; to lend money on chattel and personal security, or on real estate secured by first mortgages, running not longer than two years; provided, that such real estate loans shall not exceed twenty (20%) per cent of the aggregate loans of any such bank; to own a suitable building, furniture and fixtures, for the transaction of its business, the value of which shall not exceed one-third (1-3) of the capital of such bank fully paid; provided, further that nothing in

this section shall prohibit such bank from holding and disposing of such real estate as it may acquire through the collection of debts due it; and provided, further, that all banking institutions now organized as corporations doing business in the state, are hereby permitted to continue said business as at present incorporated; but in all other respects their business and the manner of conducting same and the operation of said bank shall be carried on, subject to the laws of this state, and in accordance therewith; and provided, further, that no bank except those that have complied with or that may be organized under the law of the state, relating to trust companies, shall engage in any business other than in authorized by this article.”

History. R. L. 259; S. L. 1907-8, p. 120; amended by C. 59, S. L. 1923-24, Sec. 1.

Bank buying draft with bill of lading attached, not engaged in Commerce. Marsh M. & G. vs. Bank, 69 Okla. 222, 171 Pac. 1122.

Contract by Bank, to pay 10% interest on deposits is contrary to public policy and void.

Morrison State Bank vs. Michael, 54 Okla. 257, 153 Pac. 1114.

Rule of Bank Commissioner.

A greater rate of interest than 4% paid on time certificates or savings accounts will not be approved.

4. Capital Stock. The capital stock of banks organized under the provisions of this article shall in all cases be fully paid up, and shall be as follows: In towns having five hundred inhabitants or less, not less than ten thousand dollars; in towns having more than five hundred and not more than fifteen hundred inhabitants, not less than fifteen thousand dollars; in cities and towns having more than fifteen hundred and not more than six thousand inhabitants, not less than twenty-five thousand dollars; in cities having more than six thousand and not more than twenty thousand inhabitants, not less than fifty thousand dollars; in cities having more than twenty thousand inhabitants, not less than one hundred thousand dollars.

History. Sec. 4117 C. O. S. 1921; R. L. 260; S. L. 1909, p. 121.

5. Change of Capital Stock. The capital stock of any banking association doing business under the laws of this state may be increased or decreased at any time by resolution adopted by three-fourths of its stockholders, at any regular meeting or at a special meeting called for that purpose, of which all stockholders shall have due notice in the manner provided by the by-laws of such banking association. A certificate must be filed with the bank commissioner by the chairman and secretary of the meeting, and by a majority of all the directors, showing the compliance with the provisions of this section. the amount to which the capital stock has been increased or decreased, the amount of stock represented at the meeting, and the vote upon the question to increase or de-

crease the capital stock. No such changes in the capital stock of any such association shall be valid or binding until the same shall have been approved by the bank commissioner. No increase of the capital stock shall be approved until the amount thereof shall have been paid in cash: Provided, however, that such increased capital may, when authorized by all stockholders of said bank, be paid in whole or part from its surplus or undivided profits. Whenever the capital stock of any bank shall be decreased as provided in this section, each stockholder, owner or holder of any stock certificate shall surrender the same for cancellation, and shall be entitled to receive a new certificate for his proportion of the new stock. No decrease of the capital stock of any such bank shall be approved unless such bank, with reduced capital, shall be entirely solvent, and no reduction in capital stock shall be approved to an amount less than is authorized by the preceeding section. Whenever the capital stock of any bank shall be increased or decreased, as provided in this section, and the same shall have been approved by the commissioner, a certificate signed by the president and cashier of the bank, setting forth the amount of stock held by each stockholder, shall be filed with the secretary of state, with the bank commissioner and with the corporation commission.

History. Sec. 4118 C. O. S. 1921; R. L. 261; S. L. 1907-8, p. 127.

Increase of capital by officers of bank without authority from three-fourths of stockholders at a regular or called meeting, is void.

State ex rel vs. Hardister, 108 Okla. 64, 237 Pac. 75.

State ex rel vs. Zoll (Okla.), 240 Pac. 1035.

BOARD OF DIRECTORS—LIABILITY OF.

Section 2. That Section 4119, of the Compiled Oklahoma Statutes, 1921, be, and the same is amended to read as follows:

“Section 4119. The affairs and business of any banking association, organization under the laws of this State, shall be managed or controlled by a board of directors of not less than three (3), nor more than twenty-one (21) in number, who shall be selected from the stockholders, at such time and in such manner as may be provided by the by-laws of the association. No person shall be eligible to serve as director of any bank, organized or existing under the laws of this state, unless he shall be a bona fide owner of Five Hundred (\$500.00) Dollars of the stock of such bank, fully paid and not hypothecated. Any director, officer or other preson who shall participate in any violation of the laws of this state, relative to banks and banking, shall be liable for all damages which the said bank, its stockholders, depositors or creditors shall sustain in consequence of such violation, and the directors of any bank operat-

ing under the provisions of this section, shall be individually liable for any loan made in excess of the amount prescribed in Section 4125, which section defines the liability of loans to any one person, firm or corporation, and shall be required to eliminate the same from the assets of their bank upon the request of the bank commissioner. The board shall select from among their number the president and secretary, and shall select from among their stockholders a cashier. Such officers shall hold their offices for a term of one (1) year and until their successors are elected and qualified. The board shall require all active employees of all state banks, to give Fidelity Bonds to the State of Oklahoma, as provided for in House Bill No. 122, Chapter 157, of the Session Laws of 1923, to be approved by them, and held by the State Banking Board. The Board of Directors shall hold at least six (6) regular meetings each year, and at such meetings a thorough examination of the books, records, funds and securities held by the bank shall be made and recorded in detail upon its record book, twice each year. A certified copy thereof shall be forwarded to the bank commissioner and to each stockholder of record within ten (10) days.

History. Sec. 4119 C. O. S. 1921; R. L. 259; S. L. 1907-8, p. 120; amended C. 59, S. L. 1923-24, Sec. 2.

Rule of Bank Commissioner.

More attention must be paid to the matter of bookkeeping and your records must be kept in a competent and intelligent manner.

In the future, each and every bank must hold a meeting of its Board of Directors monthly. A record of this meeting must be kept and recorded in the Minute Book of said bank and a copy of said record must be mailed to the Bank Commissioner immediately after said meeting. These minutes must be signed by the Directors. This rule is made for the reason that in the past a number of Directors have complained to the Commissioner that they did not know the condition of the banks with which they were connected and have sought to evade responsibility for unsatisfactory conditions. Beginning October 1st each bank will report fully the Directors' Meeting held for the month of September.

Bank officer has only such authority as is inherent in the office in the absence of delegated authority from Board of Directors.

Bank vs. Hernstein, 48 Okla. 628, 149 Pac. 1109, 1 A. L. R. 619.

Bank vs. Cromwell, 70 Okla. 199, 173 Pac. 826.

Bank officer, who induces a depositor to leave his money on deposit by false representations, is personally liable if it is lost.

Hughes vs. Martin, 81 Okla. 89, 196 Pac. 951.

Affairs and Business of banks are managed and controlled by the Board of Directors.

Bank vs. Hernstein (supra).

Bank vs. Cromwell (supra).

Bank of Quapaw vs. Flint, 97 Okla. 181, 223 Pac. 624.

Bank vs. Bank, 56 Okla. 536, 156 Pac. 352.

Eubanks vs. Bryan County Bank, 216 Fed. 833.

Cashier may offer evidence, as defense when sued, that all his acts were done openly, with full knowledge and approval of other officers and also with approval of Banking Department.

Swim vs. Bank, 109 Okla. 226, 234 Pac. 611.

7. Employees to Make Bond.

All persons who are actively engaged in the State Banking Business in the State of Oklahoma and all active employees of any such bank shall from and after the passage and approval of this Act give fidelity bond, to the State of Oklahoma, executed by a surety company in the amount fixed by the Bank Commissioner, and when executed to be approved by the Bank Commissioner for the faithful performance of their respective duties and every active officer and employee of such State Banks shall give such bond within thirty days after such officer shall become active as an officer or employee in a State Bank in the State of Oklahoma.

History. C. 157, S. L. 1923, indirectly repeals that part of section 4119 C. O. S. 1921, with relation to fidelity bond of bank officials and employees. By C. 59 Sess. L. 1923-24 Board of Directors required also to approve Bond. See Sec. 6.

Note: Bank Commissioner has ordered all banks to submit fidelity bonds to board of directors and attach carbon copy of Minutes signed by all members present and approving same, or a copy of Minutes certified by secretary of bank, as a true copy, under seal of bank. Form of such bond prepared and approved by State Banking Department.

Under the former statute, where Directors of Banks allow cashier to take general charge of Bank, all contracts made in scope of powers of bank are binding on it; and where bank sues cashier and his bondsmen guaranteeing his fidelity, it accepts such actions of cashier subject to representations made to surety by cashier in obtaining the bond and if bond was obtained by cashier by fraud it is not enforceable.

Maryland Casualty Co. vs. First State Bank, 101 Okla. 71, 215 Pac. 783.

8. Removal of Officers. Any officer of a bank found by the bank commissioner to be dishonest, reckless or incompetent shall be removed from office by the board of directors of the bank of which he is an officer, on the written order of the bank commission.

History Sec. 4120 C. O. S. 1921; R. L. 263; S. L. 1907-8, p. 129

Bank vs. Haskell—22 Okla. 81—97 Pac. 604.

Rule of Bank Commissioner:

All violations of the banking laws will necessitate the removal of the offender.

9. Charter Forfeited, When. The violation of any of the provisions of this chapter by the officers or directors of any bank organized or existing subject to the laws of this state shall be sufficient cause to subject the said bank to be closed and liquidated by the bank commissioner and for the annulment of its charter.

History. Sec. 4121 C. O. S. 1921; R. L. 264; S. L. 1907-8, p. 129

Langford vs. Meneffe 45 Okla. 249, 145 Pac. 375—Bank vs. Bank 56 Okla. 529-156 Pac. 353.

10. Additional Liability of Stockholders. The shareholders of every bank organized under this article shall be additionally liable for the amount of stock owned, and no more.

History. Sec. 4122 C. O. S. 1921; R. L. 265; S. L. 1907-8, p. 129.

As general rule all persons whose names appear on books of bank at date of failure are liable for amount of stock owned. Board vs. State ex rel (Okla.) 242 Pac. 522. Blackert vs. Lankford 74 Okla. 62-176 Pac. 532 Lankford vs. Menefee 45 Okla. 244-127 Pac 1086. Shaw vs, State is rel. (Okla.) 241 Pac. 747. Thompson vs. State (Okla.)

Bona fide sale of stock and surrender to bank officials demanding transfer to purchaser will relieve the vendor from liability under this section if vendor has done everything required of him in law.

State ex rel vs. Ware, 82 Okla. 130, 198 Pac. 860.

Note—A rule of the Bank Commissioner requires all transfers to be submitted to him for approval.

A void increase of capital stock of a bank does not create liability under this act.

State ex rel. vs. Zoll. (Okla.) 240 Pac. 1035.

State ex rel. vs. Hardister 108 Okla. 64, 237 Pac. 75.

Claims against an insolvent bank cannot be set off by a stockholder on his super-added or double liability.

Kimbriel vs. State 106 Okla. 177-233 Pac. 420.

11. Securities and Disposition Thereof. No bank shall employ its moneys, directly or indirectly, in trade or commerce, by buying or selling goods, chattels, wares or merchandise, and shall not invest any of its funds in the stock of any other bank or corporation, nor make any loans or discounts on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, unless such securities or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and stock so purchased or acquired shall, within six months from the time of its purchase, be sold or disposed of at public or private sale, and after the expiration of six months any such stock shall not be considered as part of the assets of any bank: Provided, that it may sell any personal property which may come into its possession as collateral security for any debt or obligation due it, upon posting a notice in five public places in the county wherein the property is to be sold at least ten days before the time therein specified for such sale, and which said notice shall contain the name of the bank and the name of the pledgor, the date of the pledge, the nature of the default and the amount claimed to be due thereon at the date of the notice; a description of the pledged property to be sold and the time and place of sale.

History. Sec. 4123 C. O. S. 1921; R. L. 266; S. L. 1907-8, p. 129.

Bank buying draft with bill of lading for car of merchandise attached is not engaged in trade or commerce.

Grain Co. vs. Bank, 69 Okla. 222-171 Pac. 1122.

Bank vs. Bank 56 Okla. 536-156 Pac. 352.

12. Funds on Hand.

Section 3. That Section 4124, Compiled Oklahoma Statutes, 1921, be, and the same is amended to read as follows:

“Section 4124. Every bank doing business under the laws of this State shall have on hand at all times in available funds the following sums, to-wit: Banks located in towns or cities, having a population of less than 2500 persons, an amount equal to Fifteen (15%) per cent of their entire deposits, and in towns having a population of more than 2500 persons, an amount equal to twenty (20%) per cent of their entire deposits, two-thirds of which amounts may consist of balances due to them from good, solvent banks, selected from time to time with the approval of the Bank Commissioner, and one-third shall consist of actual cash; provided, that any bank that has been made the depository for the reserve of any other bank or banks shall have on hand at all times in the manner provided herein, twenty-five (25%) per cent of its entire deposits. Whenever the available funds in any bank shall be below the required amount, such bank shall not increase its liabilities by making new loans or discounts, otherwise than the discounting or purchasing of bills of exchange, payable at sight, nor make any dividends of its profits, until the required proportion between the aggregate amount of its deposits and its lawful money reserve has been restored; and the Bank Commissioner shall notify any bank whose lawful money reserve shall be below the amount required to be kept on hand to make good such reserve and if such bank or association shall fail to do so for a period of thirty (30) days after such notice, it may be deemed to be insolvent, and the Bank Commissioner may take possession of the same, and proceed in the manner herein provided relating to insolvent banks. The Bank Commissioner may refuse to consider, as a part of its reserve, balance due to any bank from any other bank association, which shall refuse or neglect to furnish him with such information as he may require from time to time, relating to its business with any other bank doing business under this Act, which shall enable him to determine its insolvency; provided, that all savings associations which do not transact a general banking business, except building and loan associations, shall be required to keep on hand at all times in actual cash a sum equal to ten (10%) per cent of their deposits, and shall be required to keep a like sum invested in good bonds of the United States, or State, County, school district or municipal bonds of the State of Oklahoma, worth not less than par.”

History. Sess. L. 1923-24 C. 59—Sec. 3 amends. Sec. 4124, C. O. S. 1921; Amended S. L. 1915, p. 97; R. L. 267.

Note: Bank not to own stock of another bank. Art. IX, Sec. 41 Const. Court will take judicial notice of the population of a town.

Bank vs. Michael, 54 Okla. 257, 153 Pac. 1114.

13. Total Liabilities.

Section 4. That Section 4125, Compiled Oklahoma Statutes, 1921, be, and the same is amended to read as follows:

“Section 4125. The total liabilities to any bank of any person, corporation or firm for money borrowed, including in the liabilities of such person, corporation or firm the liabilities of the several stockholders, officers or members thereof, shall not at any time, exceed fifteen (15%) per cent of the combined capital stock and surplus of such bank; but the discount of bills of exchange drawn in good faith against actual existing values, as collateral security and a discount of commercial or business paper, actually owned by the person, shall not be considered as money borrowed; provided, that all banks now operating under the provision of this section prior to the present amended form, may have twelve (12) months' time from the date of the passage of this Act, in which to reduce their loans to meet the requirements herein set forth.”

History. Sess. L. 1923-24, C. 59, Sec. 3 amends. Sec. 4125 C. O. S. 1921; R. L. 268; S. L. 1907-8, p. 131.

Active managing officer cannot borrow from his bank.

Bank vs. Bank, 56 Okla. 529, 156 Pac. 352.

Eubank vs. Bank, 216 Fed. 837.

Rules of Bank Commissioner.

All open lines of credit exceeding \$500.00 must be accompanied by current financial statements of the makers for the convenience and information of our examiners.

All cotton accounts carried by our banks must be secured by good securities and a margin of at least 15% must be maintained at all times.

All other commodities by a margin of at least 10%.

All excess loans must be retired within the limit prescribed by statute and, in the future, the making of excess loans will not be tolerated.

14. Banks to Make Reports. Every bank shall make at least four reports each year, and oftener if called upon by the Bank Commissioner and according to the form which may be prescribed by him, verified by the oath or affirmation of the president or cashier of such association, and attested by the signatures of at least two of the directors. Each such report shall exhibit, in detail and under appropriate heads, the resources, and liabilities of the association at the close of business on any past day by the bank commissioner specified, and shall be transmitted to the bank commissioner within ten days after the receipt of a request or requisition therefor by him, and shall be published at the expense of the bank in the same form in which it is made to the bank

commissioner within ten days after the same is made, by two insertions in a newspaper published in the county in which such bank is established; and such proof of publication shall be furnished within five days after date of last publication, as may be required by the bank commissioner. The bank commissioner shall also have power to call for special reports from any bank whenever, in his judgment, the same are necessary, in order to gain a full and complete knowledge of its condition; provided, that the reports authorized and required by this section to be called for by the bank commissioner shall relate to a date prior to the date of such call, to be specified therein.

History. Sec. 4130 C. O. S. 1921; R. L. 273; S. L. 1907-8, p. 132.

Applied:

Bank vs. Bank 56, Okla. 530, 156 Pac. 352.

15. Dividends Reported. In addition to the reports required by the preceding sections, each bank doing business under this chapter shall, within ten days after the declaring of any dividends, forward to the bank commissioner a statement of the amount of such dividend, and the amount carried to the surplus and undivided profit accounts, and shall forward to the bank commissioner, within ten days after the first of January in each year, in such form as he may designate, a verified statement showing the receipts and disbursements of such bank for the preceding year.

History. Sec. 4131 C. O. S. 1921; R. L. 274; S. L. 1907-8, p. 133.

Applied: Bank vs. Bank, 56 Okla. 536—156 Pac. 352.

Bank vs. Haskell, 22 Okla. 48—97 Pac. 590.

16. Failure To Make Reports—Penalty. Every bank which fails to make and transmit or to publish any report required under either of the two preceding sections, shall be subject to a penalty of fifty dollars for each day after the period respectively therein mentioned, that it delays to make and transmit its report or the proof of publication. Whenever any bank delays or refuses to pay the penalty herein imposed for a failure to make and transmit or to publish a report, the commissioner is hereby authorized to maintain an action in the name of the State against the delinquent bank for the recovery of such penalty, and all sums collected by such action shall be paid into the treasury of the state banking board.

History. Sec. 4132 C. O. S. 1921; R. L. 275; S. L. 1907-8, p. 133.

17. Bank Commissioner to Take Possession, When—Effect. Any bank doing business under this chapter may place its affairs and assets under the control of the bank commissioner by posting a notice on its front door as follows: "This bank is in the hands

of the state bank commissioner.” The posting of such notice, or the taking possession of any bank by the bank commissioner, shall be sufficient to place all of its assets and property of whatever nature in the possession of the bank commissioner, and shall operate as a bar to any attachment proceedings.

History. Sec. 4133 C. O. S. 1921; R. L. 276; S. L. 1907-8, p. 133.

This and similar sections to be liberally construed.

State ex rel vs. Norman, 86 Okla. 36, 206 Pac. 523.

Placing affairs of Bank in hands of Bank Commissioner, gives Commissioner no rights superior to holder of notes and mortgage on real estate, where no funds were advanced out of guaranty Fund, and holder of mortgage may have receiver appointed for real estate under Sec. 4979 C. O. S. 21.

State ex rel. vs. Wells, 98 Okla. 169, 223 Pac. 694.

This section authorizes the Commissioner to take all assets and property of the bank.

Kimbriel vs. State, 106 Okla. 177, 233 Pac. 422.

18. Voluntary Liquidation. Any bank doing business under this chapter may voluntarily liquidate by paying off all its depositors in full; and upon filing a verified statement with the bank commissioner setting forth the fact that all its liabilities have been paid, and surrendering its certificate of authority to transact a banking business, it shall cease to be subject to the provisions of this chapter, and may continue to transact a loan and discount business under its charter. Provided, that the bank commissioner shall make an examination of any such bank for the purpose of determining that all its liabilities have been paid.

History. Sec. 4134 C. O. S. 1921; R. L. 277; S. L. 107-8, p. 134.

When a bank voluntarily liquidates under this section, all debts are due.

Bank vs. Bank 43 Okla. 342, 142 Pac. 1183.

Where bank refuses to pay off a creditor but pays the others, the creditor aggrieved may ask court for a receiver.

Bank vs. Bank, 43 Okla. 342, 142 Pac. 1183.

19. Deposits—Rate of Interest.

Section 9. That Section 4175 of Compiled Oklahoma Statutes, annotated, 1921, be and the same is hereby amended to read as follows:

“Section 4175. That no bank operating under the laws of this state, or the officers thereof, shall agree directly or indirectly to pay a greater rate of interest than four per cent per annum except by written consent of the Bank Commissioner.”

History. Sec. 9, C. 137, S. L. 1923; amending Sec. 4175 C. O. S. 1921.

Old sections applied.

Hughes vs. Martin 81 Okla. 89, 196 Pac. 952.

In re Dennis, 89 Okla. 255, 214 Pac. 1074.

Strain vs. U. S. F. & G. Co. 292 Fed. 694.

20. Dividends and Surplus Funds. The directors or owners of any bank doing business under this chapter may declare dividends of so much of the net profits of their bank as they shall judge expedient, but each bank shall, before the declaration of a dividend, carry not less than one-tenth of its net profits since the last preceding dividend to its surplus fund, until the same shall amount to fifty per cent of its capital stock; Provided, that such dividends, if any, shall be declared on the first day of January and the first day of July of each year, and shall be reported to the bank commissioner on forms prescribed by him.

History. Sec. 4136 C. O. S. 1921; R. L. 279; S. L. 1907-8, p. 134.

21. Losses Charged to Surplus Account. Any losses, sustained by any bank, in excess of its undivided profits, may be charged to its surplus account: Provided, that its surplus fund shall thereafter be reimbursed from its earnings, and no dividend shall be declared or paid by any such bank until its surplus fund shall be fully restored to its former amount.

History. Sec. 4137 C. O. S. 1921; R. L. 280; S. L. 1907-8, p. 134.

22. Dividends Only From Profits. No bank officer or director shall, during the time it shall continue its banking operations, withdraw or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital. If losses have been at any time sustained by such bank equal to or exceeding its undivided profits then on hand, no dividend shall be made, and no dividend shall be declared by any bank while it continues its banking business to any amount greater than its profits on hand, deducting therefrom its losses, to be ascertained by a careful estimate of the actual cash value of all its assets at the time of making such dividends. The present worth of all maturing paper shall be estimated at the usual discount rate of the bank. Nothing in this section shall prevent the reduction of the capital stock of any bank in the manner prescribed herein.

History. Sec. 4138 C. O. S. 1921; R. L. 281; S. L. 1907-8, p. 134.

23. Certified Checks. It shall be unlawful for any officer, clerk or agent of any bank doing business under this chapter to certify any check, draft or order drawn upon the bank unless the person, firm or corporation drawing such check, draft or order has on deposit with the bank at the time such check, draft or order is certified an amount of money equal to the amount specified in such check. Any check, draft or order so certified by the duly authorized officer shall be good and valid obligation against any such bank, but the officer, clerk or agent of any bank violating the provisions of this section shall be deemed guilty

of a felony, and upon conviction shall be punished as provided herein.

History. Sec. 4141 C. O. S. 1921; R. L. 284; S. L. 1907-8, p. 135.

Lodge vs. Bank, 64 Okla. 225, 166 Pac. 1080.

24. Liability For Overdrafts. Any bank officer or employee who shall pay out the funds of any bank upon the check, order or draft of any individual, firm, corporation or association, which has not on deposit with such bank a sum equal to such check, order or draft, shall be personally liable to such bank for the amount so paid, and such liabilities shall be covered by his official bond.

History. Sec. 4143 C. O. S. 1921; R. L. 286; S. L. 1907-8, p. 136.

25. Preference to Depositors—Penalty.

Section 1. Section 2 of Chapter 137 of the Session Laws of Oklahoma, 1923, is hereby amended to read as follows:

“Section 2. No bank, banker or bank official shall give preference to any depositor or creditor by pledging the assets of the bank as collateral security or by selling or transferring any of the assets of an insolvent bank in consideration of any deposit in such bank: Provided, any bank by the unanimous consent of its board of directors expressed by resolution duly entered in the minute book of such bank may pledge the assets of such bank as security for township, city, town, school district, benevolent or fraternal association funds deposited in such bank in all cases where no surety bond is given to secure such deposits; provided, further, that any bank may borrow money for temporary purposes, not to exceed in amount 50 per cent of the paid up capital and surplus and may pledge assets of the bank as collateral security therefor; provided, further, that whenever it shall appear that a bank is borrowing habitually for the purpose of reloaning, the bank commissioner may require such bank to pay off such borrowed money. Nothing herein shall prevent any bank from rediscounting in good faith and endorsing any of its negotiable notes. Provided, further, that no bank shall pledge or hypothecate its notes or securities as security for the deposits herein provided for or for its discounts or bills payable in an amount sufficient to create a margin of more than 25 per cent of the amount borrowed by said bank without the written consent of the bank commissioner and said bank commissioner shall not in any event give written consent to the pledging of hypthecation of any excess margin of bank notes or securities in a sum to exceed 50 per cent of the amount borrowed. Any officer, director or employe of any state bank who violates any provision of this section shall be guilty of a felony, and upon conviction thereof, shall be punished by a fine of not less than \$100.00 nor more than \$1,000.00, or by imprisonment in

the state penitentiary for not less than one year nor more than five years, or both such fine and imprisonment.

History. S. B. 401 C. 99, Sec. 1, S. L. 1925, amending Sec. 2, C. 137, S. L. 1923; Sec. 4144 C. O. S. 1921; R. L. 287.

Note: Pledging assets by bank was unauthorized except to secure state or county Funds until this section became law.

Rule of Bank Commissioner.

In the future banks will not be permitted to borrow as heavily as in the past for the purpose of re-lending.

Where President of Bank who was guardian of minors, took assets from Bank to secure a deposit of funds therein belonging to said minors, held to be preference.

Julius vs. State ex rel. (Okla.) 237 Pac. 605.

26. Proceedings When Capital Impaired. Whenever it shall appear that the capital of any bank doing business under this chapter has become impaired, the bank commissioner shall notify such bank to make such impairment good within sixty days, and it shall be the duty of the officers and directors of any bank receiving such notice from the bank commissioner to immediately call a special meeting of its stockholders, for the purpose of levying an assessment upon its stockholders sufficient to cover the requirements of its capital stock; provided, that such bank, if not insolvent, may reduce its capital stock to the extent of such impairment, if such reduction will not place its capital below the amount required by this article; provided, further, that the bank shall have a prior lien upon the stock of each individual shareholder to the extent of such assessment, and upon the failure of any such stockholder to pay the assessment authorized by this section within the time fixed by the bank commissioner for making good said impairment said lien may be foreclosed and the stock of such delinquent stockholder sold, by giving public notice of the time and place of such sale, and of the stock to be sold, by advertisement for fifteen days in some newspaper of general circulation published in the county where such bank is located.

History. Sec. 4145 C. O. S. 1921; R. L. 288; S. L. 1907-8, p. 136.

Payment of assessment so bank can continue business does not discharge stockholder from double liability in event of failure.

Blackert vs. Lankford, 74 Okla. 61, 176 Pac. 532.

Rule of Bank Commissioner.

Losses which have been determined as such will have to be charged off or otherwise eliminated from your assets.

27. Bank To Keep List of Shareholders. The president and cashier of every incorporated bank shall cause to be kept at all times a correct list of the names and residences of all the shareholders in the bank and the number of shares held by each, in the office where its business is transacted. Such list shall be subject to the inspection of all the shareholders and creditors of the bank,

and the officers authorized to assess taxes under the state authority, during business hours of each day in which business may be legally transacted. A copy of such list, verified by the oath of such president or cashier, shall be transmitted to the bank commissioner on the first Monday in January of each year.

History. Sec. 4147 C. O. S. 1921; R. L. 290; S. L. 1907-8, p. 137.

Cited. Blackert vs. Lankford 74 Okla. 61, 176 Pac. 532.

Chaplin vs. Bank 72 Okla. 193, 181 Pac. 497.

Eubank vs. Bank 216 Fed. 837.

28. National Banks May Become State Banks. Any national bank doing business in this state may incorporate as a state bank, as provided herein for the organization of banks; provided, that the bank commissioner may accept good assets of such national bank worth not less than par, in lieu of cash payment for the stock of such state bank.

History. Sec. 4146 C. O. S. 1921; R. L. 289; S. L. 1907-8, p. 137.

29. Commissioner May Revoke Permit. Whenever any officer of a bank shall refuse to submit the books, papers and effects of such bank to the inspection of the commissioner or his assistant, or shall in any manner obstruct or interfere with him in the discharge of his duties, or refuse to be examined on oath touching the affairs of the bank, the commissioner may revoke the authority of such bank to transact a banking business, and proceed to wind up its business.

History. Sec. 4148 C. O. S. 1921; R. L. 291; S. L. 1907-8, p. 137.

30. Penalty For Receiving Deposits After Revocation of Charter. Any officer of a bank whose authority to transact a banking business has been revoked, as herein provided, who shall receive or cause to be received any deposit of whatsoever nature after such revocation, shall be subject to the same penalty provided for persons transacting a banking business without authority.

History. Sec. 4149 C. O. S. 1921; R. L. 292; S. L. 1907-8, p. 137.

31. Real Estate—Bank May Purchase.

Section 5. That Section 4150 of the Compiled Oklahoma Statutes annotated, 1921, be and the same is hereby amended to read as follows:

“Section 4150. A bank may purchase, hold and convey real estate for the following purposes:

First. Such as shall be necessary for the convenient transaction of its business, including its furniture and fixtures, but which shall not exceed one-third of the paid in capital, except up-

on the written approval of the Bank Commissioner countersigned by the Banking Board.

Second: Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its business.

Third: Such as it shall purchase at sale under judgment, decree, or mortgage foreclosure, under securities held by it; but a bank shall not bid at any such sale, a larger amount than enough to satisfy its debts and costs. Real estate shall be conveyed under the corporate seal of the bank and the hands of its president or vice-president and cashier. No real estate acquired in the cases contemplated in the second and third sub-sections above shall be held for a longer time than five years. It must be sold at a private or public sale within thirty days thereafter.

History. Sec. 5, C. 137, S. L. 1923; amending Sec. 4150, C. O. S. 1921; R. L. 293: S. L. 1907-8, p. 138.

In case of failure the Bank Commissioner acquires only the interest of the bank in its property.

Bailey vs. State 72 Okla. 179 Pac. 615.

Bank vs. Lee 65 Okla. 280, 166 Pac. 186.

Briscoe vs. Hamer 50 Okla. 287, 150 Pac. 1101.

State vs. Wells 98 Okla. 169, 223 Pac. 694.

32. Shares Personal Property—Transfer. The shares of stock of an incorporated bank shall be deemed personal property, and shall be transferred on the books of the bank in such manner as the by-laws therefor may direct, but no transfer of stock shall be valid against a bank or any creditor thereof so long as the registered holder thereof shall be liable as a principal debtor, surety or otherwise to the bank for any debt, nor in such cases shall any dividend, interest or profits be paid on such stock so long as such liabilities continue, but all such dividends, interests or profits shall be retained by the bank and applied to the discharge of such liabilities, and no stock shall be transferred on the books of any bank where the registered holder thereof is in debt to the bank for any matured and unpaid obligations.

History. Sec. 4151 C. O. S. 7921; R. L. 294; S. L. 1907-8, p. 138.

No transfer of stock without the approval of the Bank Commissioner will be permitted.

If Bank recognizes transfer and issues stock to purchaser, it waives lien.

Bank vs. Trust Co. 32 Okla. 700, 123 Pac. 153.

Bank loaned money to officer in violation of law. Not entitled to lien as against pledge who had no knowledge of debt due bank.

Bank vs. Bank, 56 Okla. 529, 156 Pac. 352.

Eubank vs. Bank, 216 Fed. 837.

Transfer invalid if stockholder owes Bank.

Chaplin vs. Bank 72 Okla. 293, 181 Pac. 497.

State vs. Ware, 82 Okla. 131, 198 Pac. 860.

TO ALL STATE BANKS:

In view of the fact that banks frequently change hands and new officers are elected without giving the Commissioner an opportunity to investigate their moral and financial standings, as well as their business qualifications, you are advised that this practice is a violation of the spirit of the banking law and, in future, where such changes are anticipated by sale, consideration or otherwise, same must be reported to this office promptly for approval, both as to ownership and officials.

Officials elected in violation of the above ruling will be removed from office.

No transfer of stock without the approval of the Bank Commissioner will be permitted.

33. Bank Cannot Loan on its Stock—Loans to Stockholders. It shall be unlawful for any bank to loan its funds to its stockholders on their stock as collateral security; and the total indebtedness of the stockholders of any bank shall at no time exceed fifty per cent of its paid up capital; provided, that any bank may hold its stock to secure a debt previously contracted.

History. Sec. 4152 C. O. S. 1921; R. L. 295; S. L. 1927-8, p. 138.

Pledgee without notice of stockholders debt to bank can hold stock.

Bank vs. Bank 56 Okla. 529, 156 Pac. 352.

Eubank vs. Bank 216 Fed. 838.

34. When Deemed Insolvent. A bank shall be deemed to be insolvent, first, when the actual cash market value of its assets is insufficient to pay its liabilities; second, when it is unable to meet the demands of its creditors in the usual and customary manner; third, when it shall fail to make good its reserve as required by law.

History. Sec. 4135 C. O. S. 1921; R. L. 278; S. L. 1907-8, p. 134.

Section applies to banks for civil purposes—not for criminal prosecutions.

Appleget vs. State (Okla.) 243 Pac. 251.

Kimbriel vs. State 106 Okla. 177, 233 Pac. 422.

35. Commissioner to Provide Blanks and Preserve Records. For the purpose of carrying into effect the provisions of this chapter, the bank commissioner shall provide a form for the necessary blanks for such examinations and reports; and all examinations and reports received by him shall be preserved in his office.

History. Sec. 4153 C. O. S. 1921; R. L. 296; S. L. 1907-8, p. 138.

RULES OF BANK COMMISSIONER

Banks will not be permitted to pay interest on checking accounts of individuals, firms or corporations: provided that this shall not apply to a deposit of funds of the government, state, county, city, town, school district, township or other funds that may be protected as provided by law.

Any state bank official, director, stockholder, employee or agent violating any of the above rules, either directly or indirectly, will be subject to removal and such punishment as is provided by law.

By resolution of the Banking Board, application for a charter for a state bank will not be considered upon a capital of less than Fifteen thousand Dollars, without regard to population, and no application to reduce the capital of any bank below Fifteen Thousand Dollars will be considered.

All rules and regulations, as promulgated by the the Bank Commissioner, were executed in order to safe-guard and protect State Banks from future trouble, and the Bank Commissioner insists that all such rules and regulations be complied with to the letter.

36. State Depositories. Any bank or trust company which has complied with the provisions of this chapter, or any national bank located in this state, shall be eligible to act as a depository of state funds, of any fund under the control of the state or any officer thereof, upon compliance with the laws of this state relating to the deposits of public funds.

History. Sec. 4170 C. O. S. 1921; R. L. 307; S. L. 1907-8, p. 142.

Cited—Lankford vs. Menefee 45 Okla. 249, 145 Pac. 382.

37. State Treasurer—State Depositors.

Section 5. That Section 8605, Compiled Oklahoma Statutes, 1921, be, and the same is hereby amended to read as follows:

“Section 8605. The state treasurer is hereby authorized and directed by and with the consent of the Governor and attorney general to select a number of banks within the State of Oklahoma as depositors of the public funds of the state; such banks must be in good standing and conducting a regular banking business and they shall pay to the state, interest at the rate of three (3) per cent. per annum, on daily balances, and shall collect free of charge to the state, such drafts, bills of exchange and checks as may be deposited by the state in the regular course of business, and shall pay all checks and drafts legally authorized and duly drawn on the state funds deposited in such bank. There shall not be deposited in any one of such banks, of the state funds, an amount to exceed the capital stock of any such bank. Such banks shall make quarterly reports of the fiscal year of the amount deposited and checked out or withdrawn and the balance on hand, including accrued interest belonging to the state.”

History. Sec. 5, C. 59, S. L. 1924; amending Sec. 8605 C. O. S. 1921; R. L. 6779, S. L. 1905; p. 338.

38. Securities for State Deposits—Kinds Accepted. Any and all banks selected as such depositories shall deposit with the state treasurer, as security for such moneys or funds, United States bonds, state bonds, or warrants, county bonds or warrants, city bonds or warrants, town bonds or warrants, township bonds or warrants, school district bonds or warrants issued under authority and in compliance with the Statutes of Oklahoma; or other legal evidence of indebtedness issued by municipalities of this state in payment of paving, sewer, waterworks, electric light or other public indebtedness, and for the payment of which a special tax is authorized to be levied and collected; first mortgage bonds on farm lands located in the State of Oklahoma; provided, that such first mortgage bonds shall not exceed forty per centum (40%) of the actual cash value of such farm lands, and shall bear interest at not less than six per centum (6%) per annum; or approved state, county and municipal bonds of other states; in an amount equal to such deposit, to be held as security for such moneys and funds until such banks shall have returned in full and fully paid the sum or sums deposited and interest thereon. In addition to the foregoing securities or in lieu thereof, surety or trust company bonds may be accepted as security for such deposit; provided, that no surety or trust company shall be interested, directly or indirectly in any manner, in any bank or trust company for which it becomes surety, nor shall any bond of any surety or trust company be accepted that has more than one-fourth ($\frac{1}{4}\%$) of its paid capital invested in bank stock. The bondsmen of the state treasurer shall be liable to the bank for any securities deposited as herein provided and for the accounting of all such securities and the return thereof to the said bank or the value thereof in money.

History. Sec. 8606 C. O. S. 1921; S. L. 1915, p. 636, Sec. 1, amending R. L. 6780.

39. Approval of Securities—Forfeiture and Sale. It shall be the duty of the governor, the attorney general and the state treasurer to examine, and if found satisfactory, to approve such security so offered; and the expenses of such investigation, if any, shall be paid by the bank offering the securities. In the event of default of such bank designated and approved as a state depository, the said securities shall become forfeited to and become the property of the state, and shall be sold by the state treasurer after sixty days' notice, at public or private sale, at not less than par value or market value, without further process of law. Should the proceeds of the sale of such securities be less in amount than the amount deposited, accrued interest, expenses of advertising and selling, the said state treasurer shall be entitled to recover from such bank such balances with costs and attorney's fee.

History. Sec. 8607 C. O. S. 1921; R. L. 6781; S. L. 1905, p. 339.

40. Deposit of Sinking Funds.

Section 1. That Section 8577, of the Compiled Oklahoma Statutes, 1921, be and the same is hereby amended to read as follows:

“Section 8577. That county treasurer, treasurers of cities, towns, boards of education and township boards, shall each day hereafter make a deposit of all uninvested sinking fund money in their hands in banks designated by the Board of County Commissioners as County Depositories and furnishing the security now required by law, at not less than three (3%) per cent interest, per annum, on daily REALIZED balances.”

History. Sec. 1, S. B. 243, C. 62 S. L. 1925; amending Sec. 8577 C. O. S. 1921; S. L. 1915, p. 147. Act approved March 31, 1925.

COUNTY DEPOSITORIES

41. County Treasurer—Deposits—Amounts.

Section 1. That Section 5727, Compiled Oklahoma Statutes, 1921, be, and the same is hereby amended to read as follows:

“Section 5727. In all counties, the County Treasurer shall deposit daily all the funds and money of whatsoever kind that shall come into his possession by virtue of his office as such County Treasurer in his name as such County Treasurer in One (1) or more banks located in the county and designated by the Board of County Commissioners as the County Depositories; provided, that there shall not be deposited of such funds in any One (1) bank at one (1) time a greater amount than the capital stock and surplus of said bank. Such bank shall receive all moneys, checks or drafts at par and pay interest on the average daily realized balances at the rate of not less than three (3%) per annum, and shall pay the same monthly to the County Treasurer. Before directing or authorizing the deposit of any such funds aforesaid, the Board of County Commissioners shall take from each such bank a surety bond of some surety company authorized by the proper authorities of the State of Oklahoma to do business in said State, in a sum equal to the largest approximate amount that may be deposited in each respectively, at any one time; said surety bond to be uniform and prescribed by the Attorney General of the State. Provided, that in lieu of said surety bond or in addition thereto, security may be taken consisting of United States Bonds, State Bonds, or Warrants, County Bonds or Warrants, or other bonds or warrants issued by any municipality under authority of and in compliance with the Statutes of Oklahoma; provided, that all said warrants shall have been issued pursuant to a legal appropriation. All surety bonds taken under the provisions of this Act shall bear the approval of the County Attorney and the Board of County Commissioners and all securities accepted in lieu of surety bonds shall bear the approval of the County Judge and the County

Attorney. The County Commissioners shall provide for the County Treasurer, a safe and secure receptacle and place for the safe keeping of said securities mentioned herein in lieu of a surety bond. It shall be unlawful for said county treasurer to leave said securities in the custody of or deposit same in the bank furnishing the same, but shall keep the same in his custody at the county court house, where the same shall be subject to inspection at any time, or in some safe place designated by the Board of County Commissioners, and the State Examiner and Inspector when examining a county treasurer's records shall in addition to his other duties examine said office with a view of seeing that the provisions of this Act are complied with, and it shall be the duty of said State Examiner and Inspector if he shall find that the provisions of this Act are being violated, to at once file a written report of such condition with the county attorney of said county, and provided, further, that said securities and surety bond shall be at all times in the custody and under the control of the County Treasurer. The condition of said bond shall be that such deposit shall be promptly paid on a check or draft of the Treasurer of such county, and the bondsmen of such Treasurer shall not be liable for such deposit. And such banks shall on the first Monday of each month file with the County Clerk of such County a statement of the amount of money on hand belonging to the County at the close of business each day during the previous month and the amount of interest accrued thereon to such date. Provided, that nothing in this Act shall be construed to prohibit the County Treasurer from depositing funds of the County in banks outside of the county in cases of emergency and when such bank shall place with the County Treasurer the same class of security as hereinbefore provided, then the County Treasurer is hereby authorized to deposit any surplus funds in his hands with the State Treasurer as official depository and the State Treasurer as official depository is hereby authorized to receive said county deposits, the same to be withdrawn on the voucher of the office depositing the same, and the interest earned on said deposit to be credited to the account earning the same. It is hereby made unlawful for any of the county's funds to be deposited in any bank in which County Treasurer or any member of the Board of County Commissioners shall be the owner of any stock or otherwise pecuniarily interested."

Violation of Act—Felony.

Section 2. Any county treasurer violating any of the provisions of this Act shall be guilty of a felony and upon conviction shall be punished by confinement in the State Penitentiary for a term not less than one year nor more than four years.

History. S. L. 1925, C. 88, with Emergency approved April 2, 1925.

Under prior act County Commissioners had no power to regulate the amount of deposit.

Com. vs. Dunlap 17 Okla. 53, 87 Pac. 590.

Bond signed by individuals treated as common law bond and defense of ultra vires not available.

Ewing vs. Board of Com. 13 Okla. 250, 156 Pac. 229.

Yeargm vs. Board of Com. 90 Okla. 38, 215 Pac. 619.

Deposit of County Funds under this law was not entitled to participate in assets of insolvent bank or the guaranty Fund prior to repeal thereof.

Lovett vs. Lankford 47 Okla. 12, 145 Pac. 767.

In re Dennis 89 Okla. 255, 214 Pac. 1074.

Bond conforming to this section will be upheld and other provisions treated as surplus.

Ins. Co. vs. Muskogee Co., 60 Okla. 140, 156 Pac. 655.

Yeargin vs. Board of Com. 90 Okla. 38, 215 Pac. 619.

Deposit of Funds in compliance with this section relieves the County Treasurer of liability.

State ex rel vs. McCloud 64 Okla. 125, 166 Pac. 1065.

If deposit by County Treasurer exceeds the amount of Bond or securities pledged County Treasurer is liable on his bond.

State ex rel vs. McCloud 64 Okla. 126, 166 Pac. 1065.

State ex rel vs. McCloud (supra).

Hinton vs. State ex rel. 57 Okla. 777, 156 Pac. 161.

County Treasurer is prohibited from receiving any profit personally from interest earned by a deposit of county Funds, and county may recover same.

West vs. Board of Com. 59 Okla. 169, 158 Pac. 354.

42. Treasurer's Bondsmen Liable for Securities. The bondsmen of said county treasurer shall be liable to the bank depositing any of the securities as above named for the accounting of all such securities and the return to said bank of any or all of the securities as above named, or their value in money. Before any of the securities above named shall be accepted by the county treasurer in behalf of the county commissioners, said securities shall be approved to the satisfaction of a majority of a commission composed of the county judge, county attorney and county clerk.

History. Sec. 5728 C. O. S. 1921; R. L. 1541; S. L. 1905, p. 182.

43. Deposits by Guardian Unlawful. It shall be unlawful for a guardian of a minor or incompetent to deposit money belonging to his ward in any bank in which the guardian is financially interested or is employed, and any guardian who shall in the future deposit money belonging to his ward in any bank in which he is financially interested shall be removed from office by the county judge having jurisdiction and some qualified person shall be appointed guardian in his stead; provided, however, the provisions of this act shall not apply to any person who is guardian of any estate where the value of the personal property does not exceed seventy-five hundred dollars (\$7,500.00), and shall not prohibit

any person from acting as guardian of his own children, without regard to the size of the estate.

History. Sec. 1465 C. O. S. 1921; S. L. 1919, p. 404, Sec. 2.

This section does not apply to trust companies. C. 56 Sess. L. 1925, Sec. 3, Pac. 4.

44. False Advertising—Misuse of Term “Bank”. It shall be unlawful for any individual, firm, or association, or corporation to receive money upon deposit or transact a banking business except as authorized by the laws of the State of Oklahoma, or of the United States, or to use or advertise, in connection with any business other than the banking business, conducted under the banking laws of this State, the words: Banker, bankers, investment banker, or any other word or term calculated to deceive the public into belief that such person, firm, association or corporation, is engaged in the banking business. Any person, firm, association or corporation violating any of the provisions of this section, either individually or as an interested party, in any firm, association or corporation shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than three hundred dollars (\$300.00) nor more than one thousand (\$1,000.00) dollars, or by imprisonment in the county jail not less than thirty days nor more than one year, or by both such fine and imprisonment, and it is hereby made the duty of the attorney general to enforce the provisions of this section; and in order to further prevent the violation of the section, any court of competent jurisdiction in this state is hereby authorized and empowered to grant an injunction and to appoint a receiver to take charge of the business and assets of any person, firm, association or corporation found guilty of violating the provisions of this section, and to make all necessary and proper orders to wind up such business and prevent a violation of this section.

History. Sec. 4129 C. O. S. 1921; S. L. 1915, p. 98, Sec. 2, amending R. L. 272.

Lankford vs. Menefee 45 Okla. 228, 145 Pac. 375.

The privilege of engaging in banking business is conferred only on banking corporations.

Levy vs. Reed 69 Okla. 180, 170 Pac. 497.

45. Banks—May Invest in Bonds.

Section 6. Any bank, trust, or insurance company, organized under the laws of this state, may invest its capital and surplus in bonds issued under the provisions of this act. The officers having charge of any sinking fund of the state, or of any county, city, town, township or school district thereof, may invest the sinking fund of the state or of such county, town, township, or school district in bonds issued under the provisions of this act; said bonds shall also be approved collateral as security for the deposit of any public funds and for the investment

of trust funds. Said bonds shall be non-taxable for any purpose. The Board of Regents of the University of Oklahoma and the Board of Agriculture of the State of Oklahoma are required and directed to carry fire and tornado insurance on the said dormitories erected under the provisions of this act, and in case of damage to said buildings or loss thereof, the said insurance money is to be used by said board of regents of said institutions to repair said buildings so damaged, or to rebuild same in case of total loss of any or all of them.

History. Sec. 6, C. 87, S. L. 1924.

46. Banks—State Treasurer—Deposits—Student Loans.

Section 1. Upon application from any bank approved as a depository of public funds of the state, as provided in Chapter 78, Article 3, Compiled Oklahoma Statutes, 1921, the state treasurer is hereby authorized and directed to make a deposit with said bank, the terms and conditions of which shall be as follows:

First: That the money thus deposited shall be loaned to students who are graduates of a high school or other secondary school of Oklahoma, and who are attending some institution of higher learning within this state, with which to pay actual and necessary expenses incident to college or university attendance.

Second: That the amount thus loaned shall not exceed for any one pupil in any one year, three hundred (\$300.00) dollars.

Third: That the interest charged shall not exceed six (6%) per cent per annum.

Fourth: That the notes or renewals thereof securing the payment shall mature substantially as follows:

(a) For a one year course, one year from date of completion of the course.

(b) For a two year course, of consecutive years, equal amounts in one and two years, from date of completion of the course.

(c) For a three year course, of constructive years, equal amounts in one and two years from date of completion of the course.

(d) For a four year course, of consecutive years, equal amounts in one, two and three years from date of completion of the course.

Fifth. That there shall accompany the application of the bank, as provided above in this section:

(a) A certificate from the principal or superintendent of the high school, or other secondary school, in which the applicant com-

pleted the course required for college entrance, to the effect that the applicant was faithful in the discharge of his duties as a pupil and that his record is such as would warrant the presumption that he should be able to successfully prosecute a course of study and training in an institution of higher learning; that the applicant's record for conduct is honorable in all things; that the applicant's financial condition or the financial condition of those upon whom he is dependent is such as to make it impossible or difficult for him to secure the advantages offered by our institution of higher learning, without such financial assistance.

(b) After one year's attendance at any institution of higher learning there shall accompany the application of the bank for each succeeding year a certificate from the president of the institution of higher learning where the applicant has been in attendance not less than one year, to the effect that his record for scholarship, conduct, industry and general attitude toward the institution is such as would warrant the continuance of such financial assistance.

History. C. 84, S. L. 1923.

47. Banker's Lien. A banker has a general lien, dependent on possession, upon all property in his hands belonging to a customer, for the balance due to him from such customer in the course of the business.

History. Sec. 7434 C. O. S. 1921; R. L. 3854; Dak. 4443. S. L. 1890, Sec. 3324.

Bank may apply funds or deposit of a customer to any past due debt.

Gillette vs. Bank 95 Okla. 77, 218 Pac. 1058.

Where deposit was made by third person to credit of second person without authority of which bank had no notice, held relation of debtor and creditor did not exist between bank and second party and bank had no right to off set same against debt of third party.

Gillette vs. Bank (supra).

A banker is liable for conversion if he neglects to sell a customers property on which he has a lien, within a reasonable time.

Bank vs. Beeson 104 Okla. 293, 231 Pac. 845.

Prior lien of banker is not affected by a subsequent garnishment.

Bank vs. Bennett (Okla.) 243 Pac. 135.

FEDERAL RESERVE

48. The words "federal reserve act" herein used shall be held to mean and to include the act of congress of the United States approved December 23, 1913, as heretofore and hereafter amended.

The words "federal reserve board", shall be held to mean the federal reserve board created and described in the federal reserve act.

The words "federal reserve bank", shall be held to mean the federal reserve banks created and organized under authority of the federal reserve act.

The words "member bank", shall be held to mean any national bank, state bank or banking and trust company which has become or which becomes a member of one of the federal reserve banks created by the federal reserve act.

History. Sec. 4155 C. O. S. 1921; S. L. 1921, p. 143.

49. Banks—Authority to Become Member of Federal Reserve Bank. That any bank or trust company incorporated under the laws of this State shall have the power to subscribe to the capital stock and become a member of a federal reserve bank.

History. Sec. 4156, C. O. S. 21, L. 1921, p. 143.

51. Same—Authority Vested in Banks:

Any bank or trust company incorporated under the laws of the State of Oklahoma which is, or which becomes a member of a federal reserve bank, is by this act vested with all powers conferred upon member banks of the federal reserve banks by the terms of the federal reserve act as fully and completely as if such powers were specifically enumerated and described herein, and all such powers shall be exercised subject to all restrictions and limitations imposed by the federal reserve act, or by regulations of the federal reserve board made pursuant thereto: Provided, however, that this section shall not limit the duties and powers of the bank commissioner and the banking board to supervise, regulate, administer and control all state banks and trust companies nor limit the power of the bank commissioner to declare such bank or trust company to be an insolvent institution, and to take charge thereof for the purpose of winding up its affairs as now or may hereafter be provided by law.

History. Sec. 4157 C. O. S. 1921, L. 1921, p. 143.

Federal Reserve Banks—Requirements—Compliance with:

A compliance on the part of any such bank or trust company with the reserve requirements of the federal reserve act shall be held to be a full compliance with those provisions of the laws of this State which require banks or trust companies to carry or maintain reserve other than such as is required under the terms of the federal reserve act.

History. Sec. 4158 C. O. S. 1921; L. 1921, p. 143.

52. Examination—Copies of Examination:

Any such bank or trust company shall be subject to the examinations required under the terms of the federal reserve act, and the authorities of this State having supervision over such Bank, may in their discretion accept such examination in lieu of the examination required under the laws of this State. Such authorities,

their agents and employees, may furnish to the federal reserve board, the federal reserve banks, or to examiners duly appointed by the federal reserve board, or the federal reserve banks, copies of all examinations made, and may disclose to such federal reserve board, federal reserve banks, or examiner, any information with reference to the condition of affairs of state banks or trust companies organize under the laws of this State which become members of a federal reserve bank, or which apply for membership in a federal reserve bank.

History. Sec. 4159 C. O. S. 21, L. 1921, p. 143.

53. Banks—Borrowing and Discounting—Not Limited:

Any bank or trust company incorporated under the laws of this State which is or which becomes a member of the federal reserve bank, shall not be limited in its borrowing or rediscounting with the federal reserve bank of which it is a member.

History. C. O. S. '21, Sec. 4160.

BANKING BOARD

54. Banking Board—Compensation:

Section 6. That Section 4161 of Compiled Oklahoma Statutes annotated, 1921, be and the same is hereby amended to read as follows:

“Section 4161. That the banking board shall be composed of the bank commissioner and three other persons, which persons shall be appointed by the Governor by and with the advice and consent of the Senate, no one of whom shall be an officer or director of a national bank. Said three members shall hold office concurrently with the Governor, and as soon as said members are appointed under the provisions of this act, the board shall select one of said members as treasurer. The members of the board, other than the bank commissioner shall receive Fifteen (\$15.00) Dollars each per day for attendance upon said board, and they shall be paid their actual and necessary expenses incurred in performance of their duties, the same to be paid out of the general revenue fund. The bank commissioner shall be the chairman of said board. Said board in conjunction with the bank commissioner shall have supervision and control of the issuing of bank charters and the administration of the banking laws of the state not inconsistent with other specific declarations, provided by the statutes. If a vacancy shall at any time occur in the membership of said board, the Governor shall fill the same by appointment as herein provided.

History. Sec. 6, C. 137, S. L. 1923; amending Sec. 4161 C. O. S. 1921.

Under former law suit against Bank Commissioner and Banking Board was suit against State.

Board vs. Trust Co. 49 Okla. 72, 151 Pac. 566.

Lovett vs. Lankford 47 Okla. 12, 145 Pac. 767.

Lankford vs. Schroeder 47 Okla. 279, 147 Pac. 1049.

Lankford vs. Platte Iron Works 235 U. S. 461, S. C. 173, 596 Ed. 316.

Immunity of Board from suit is not waived by unauthorized agreed statement of facts.

Surety Co. vs. Board 49 Okla. 184, 152 Pac. 389.

55. Banking Board—Selection — Executive Council — Fees. The directors of each state bank shall have the authority to select a person to represent it in making recommendations to the Governor for the appointment of members of the banking board. Said persons selected by the board of directors of each of such state banks shall constitute the State Bankers' Association, and such association shall select an executive council of not less than nine, nor more than fifteen members, who shall recommend to the Governor the names of nine persons having qualifications in this act prescribed for members of the banking board, from which to select the members of the banking board. The Governor shall appoint said banking board from the names so submitted, said executive council shall have authority to collect annually from each and every corporation engaged in the banking business under the laws of this state a sum of money not exceeding fifty cents (50) upon each one thousand dollars (\$1000.00) of the capital and surplus of such bank, and for the purpose of collecting said money the said executive council shall have authority and is hereby empowered to make such rules and regulations as in its judgment shall be necessary, and such assessment or assessments shall become a fixed indebtedness against such bank or banks, and may be collected by suit in the name of the association.

History. Sec. 4171 C. O. S. 1921; S. L. 1915, p. 99, Sec. 3, amending S. L. 1913, p. 26, Sec. 3.

Note: This act authorizes the Executive Council to name nine bankers for members of board but appears to be inoperative as repugnant to Sec. 6, C. 137, S. L. 1923, supra, but the remainder appears to be in force. The Governor is probably not bound to follow this anyway. The rest of the act appears to be operative.

56. Removal of Members of Banking Board. The bank commissioner and the members of the banking board shall be subject to removal by the Governor for cause; two-thirds of the representatives of the state banks, expressed in such a manner as they may determine, shall have the authority to make recommendations to the Governor in exercising the power of removal, and due consideration shall be given by the Governor to the recommendation of the majority of said representatives of state banks in ascertaining the grounds for removal of the Bank Commissioner and the members of the banking board.

History. Sec. 4172 C. O. S. 1921: S. L. 1913, p. 26, Sec. 5.

This section contemplates an investigation by the Governor before removing for cause, but courts will not interfere with the exercise of this executive discretion.

Bynum vs. Strain, 95 Okla. 45, 218 Pac. 883.

57. Charter—Issuance.

Section 8. That Section 4174 of Compiled Oklahoma Statutes annotated, 1921, be and the same is hereby amended to read as follows:

“Section 4174. From and after the passage of this act no charter or authority to engage in the banking business in this state shall be issued and no bank be permitted to engage in business except on certificate issued by the bank commissioner upon approval of the banking board. The issuance of such certificate shall rest solely in the discretion of the Bank Commissioner and the Banking Board. Such banks organized subsequent to the enactment of this act shall deposit the sum of \$100.00 in cash with the bank commissioner to guarantee the payment of any necessary expenses of examination of such bank prior to its opening for business.

History. Sec. 8, C. 137, S. L. 1923; amending Sec. 4174, C. O. S. 1921; S. L. 1913, p. 30.

Under old law Commissioner had no discretion.

Smock vs. Bank, 22 Okla. 825, 98 Pac. 945.

58. Examination of Banks—Corruption in Office. The banking board shall cause one of the examiners to visit each bank, doing business under the provisions of this act, at least twice each year, an oftener if the commissioner deems it necessary. Upon such examination the examiner shall make a careful, thorough and complete examination into the condition and affairs of such bank, and for such purposes each examiner is hereby empowered to administer oaths and to examine under oath any officer, director, employee, agent, clerk, stockholder, depositor, or borrower of such bank. They shall make complete detailed reports of all their examinations and findings, and shall make such recommendations to the commissioner as in their judgment may be necessary for the better management, or to better the condition, of any bank examined by them. Such reports shall be transmitted to the commissioner as soon as made up, and shall be kept on file in the commissioner's office. Any commissioner, assistant commissioner, secretary, examiner or employee of the banking department, who shall be guilty of any corruption or misconduct in office, or who shall accept any gratuity, reward or present from any bank or bank officer, or shall take or accept any fee or compensation from any bank or banker during his term of office, shall be deemed guilty of corruption in office, and, upon conviction, shall be punished by imprisonment in the State Penitentiary for a term of not less than one, nor more than ten years; and any commissioner, secretary, examiner or employee of the banking department, who shall neglect to perform any duty, or who shall prove to be in-

competent, negligent, or insubordinate, may be summarily removed by the state banking board.

History. Sec. 4176 C. O. S. 1921; S. L. 1913, p. 32, Sec. 10.

Admission of criticisms of bank by examiner showing condition is proper against officer for receiving deposit.

Appleget vs. State (Okla.) 243 Pac. 251.

59. Assignment of Shares of Stock—Restrictions. Any owner of any of the shares of the capital stock of any banking corporation, may make disposition of such shares by written assignment endorsed upon the certificates of stock and by delivery of the same, but no such assignment shall be effectual to transfer the title to such shares of stock until the same are transferred upon the stock books of the corporation. Any shareholder who shall sell, assign, or in any manner dispose of his shares of stock, shall, in the event of the insolvency of such corporation, continue to be liable thereon jointly with the owner thereof, to the extent of the liability of such owner, for a period of one year from the date of the transfer of such shares upon the books of such corporation, or until the bank has been examined and the sale approved by the State Bank Commissioner.

History. Sec. 4177 C. O. S. 1921; S. L. 1913, p. 33, Sec. 11.

Note: (See rules of Board).

Where stock is sold but not transferred on books one year prior to failure both seller and purchaser are jointly liable for the double liability.

Board vs. State ex rel. (Okla.) 242 Pac. 522.

60. Convicted Persons Barred From Banking Business. No person who has been convicted for the violation of the banking laws of this or any other state shall be permitted to engage in or become an officer or official in any bank organized in this state.

History. Sec. 4187 C. O. S. 1921; S. L. 1913, p. 38, Sec. 21.

61. Bank Commissioner.

Section 1. Bank Commissioner—Term—Power. General laws shall be enacted by the legislature providing for the creation of a Banking Department, to be under the control of a Bank Commissioner, who shall be appointed by the Governor for a term of four years, by and with the consent of the Senate, with sufficient power and authority to regulate and control all State Banks, Loan, Trust and Guaranty Companies, under laws, which shall provide for the protection of depositors and individual stockholders. (Bunn's Ed. Sec. 315).

History. Sec. 1, Article XIV, Constitution of Oklahoma.

This provision is the Key-stone of the bank laws and should be liberally construed.

State ex rel vs. Norman 86 Okla. 36, 206 Pac. 522.

Kimbriel vs. State ex rel, 106 Okla. 177, 233 Pac. 422.

The Bank laws passed under this provision of the Constitution apply only to banks and trust companies and they supersede the general corporate laws.

State ex rel vs. Norman (supra).

It was intention of guaranty law passed under this provision to protect unsecured depositors first.

State ex rel vs. Zale (Okla.) 240 Pac. 1035.

62. Bank Commissioner—Appointment.

Section 1. That Section 4225, Compiled Oklahoma Statutes, 1921, be, and the same is hereby amended to read as follows:

“Section 4225. The Governor shall appoint, by and with the advice and consent of the Senate, a Bank Commissioner, who has been a tax payer for three years prior to appointment and who shall hold office for a term of four years, and until his successor is appointed and qualified.”

History. Sec. 1, C. 47, S. L. 1923-1924, repealing Sec. 1, C. 220, S. L. 1923, and amending Sec. 4225 C. O. S. 1921; R. L. 333; S. L. 1907-8, p. 143.

63. Assistant Bank Commissioner.

Section 2. There is hereby created the office of the Assistant Bank Commissioner and Secretary to the Banking Board who shall be appointed by the Bank Commissioner subject to the approval of the banking board who shall have had at least three years actual experience in the banking business and who shall be Assistant Bank Commissioner and Secretary to the State Banking Board and who, in case of absence or disability of the Bank Commissioner, shall have authority to perform the duties imposed by law upon the Bank Commissioner.

The Assistant Bank Commissioner and Secretary to the Banking Board shall receive a salary of \$3,600.00 per annum, and traveling expenses, including only railroad fare, livery hire, telephone, telegraph and hotel bills while on business connected with his department, payable monthly out of the General Revenue Fund of the State.

History. Sec. 2, C. 220, S. L. 1923; rep. C. O. S. 4227.

64. Assistants to the Bank Commissioner.

Section 3. There are hereby created and established not to exceed fourteen positions, each to be known as Assistant to the Bank Commissioner, all but two of them shall have had at least three years' experience in actual banking; one of them shall have had at least three years' experience in the actual handling and control of Building and Loan Associations and shall be designated by the Bank Commissioner as the Building and Loan Auditor, and be a duly licensed accountant.

One other shall have had at least three years' experience as a public accountant, Auditor or Bank Examiner and shall be designated as the Auditor for the Banking Department.

Two of said assistants shall have had at least two years' experience either as a State or National Bank Examiner and shall be designated as special assistants or field supervisors at large.

All such positions shall be filled by appointment by the Bank Commissioner, subject to the approval of the Banking Board, and the incumbent thereof shall hold office at the pleasure of the Bank Commissioner and the Banking Board.

The salary of the Assistant designated as the building and loan auditor shall be \$3,000.00 per annum and traveling expenses, including railroad fare, livery hire, telephone, and telegraph and hotel bills while on business connected with his department payable monthly out of the general revenue fund of the State.

The salary of each of the two assistants to the Bank Commissioner designated as special assistants or supervisors at large shall be \$3,600.00 per annum and traveling expenses including only railroad fare, livery hire, telephone, telegraph and hotel bills while on business connected with their departments payable monthly out of the general revenue fund of the State.

The salary of each of the other Assitants to the Bank Commissioner shall be \$2,400.00 per annum for the first year's service, \$2,600.00 per annum for the second year's service, \$2,800.00 per annum for the third year's service and \$3,000.00 per annum for the fourth year's service, and traveling expenses including only railroad fare, livery hire, telephone, telegraph and hotel bills while on business of the department, payable monthly out of the General Revenue Fund of the State.

Provided, no person shall hold the position of the Assistant to the Bank Commissioner, who after his appointment shall be interested, directly or indirectly, in any Bank or Building and Loan Association, nor shall any person become interested, directly or indirectly in any Bank, or Building and Loan Association, while holding such position.

Provided, that any person receiving the appointment of Assistant to the Bank Commissioner who shall have had two years' previous experience either as a State or National Bank Examiner in Oklahoma, shall be entitled to receive the maximum compensation herein provided of \$3,000.00 per annum on and after the date of the approval of his appointment as such Assistant to the Bank Commissioner.

History. Sec. 3, C. 220, S. L. 1923; rep. C .O. S. Sec. 4227, 4228.

The office of Building and Loan Auditor was not repealed by Sess. L. 1925, p. 31.

66. Bonds and Oaths of Office.

Section 9. The Bank Commissioner shall before entering upon the discharge of his duties take and subscribe to the usual oath of office and shall execute to the State of Oklahoma a bond in the sum of \$25,000.00 with sufficient surety for the faithful performance of his duty.

And, the Assistant Bank Commissioner and Secretary to the Banking Board shall before entering upon the discharge of his duties take and subscribe to the usual oath of office and shall execute to the State of Oklahoma a bond in the sum of \$25,000.00 each with sufficient surety for the faithful performance of his duty.

Each of said Assistants to the Bank Commissioner and the Attorney for the Banking Department shall, before entering upon the discharge of their duties take and subscribe to the usual oath of office and shall execute to the State of Oklahoma a bond in the sum of \$10,000.00 each with sufficient surety for the faithful performance of their duty; said bonds shall be approved and filed as provided by law.

History. Sec. 9. C. 220, S. L. 1923; rep. Sec. 4226 C. O. S. and Sec. 4227 C. O. S. 1921.

67. State Bank Commissioner—Salary.

Section 1. The salary of the State Bank Commissioner is hereby fixed at Five Thousand (\$5,000.00) Dollars, per annum, and traveling expenses, including only railroad fare, livery hire, telephone, telegraph and hotel bills, while on business connected with his Department, payable monthly, out of the general revenue fund of the State.

History. Sec. 1, C. 81, S. L. 1924.

ATTORNEYS

68. Same—Office of Attorney—Salary.

Section 2. Section 4, Chapter 220, of the Session Laws of Oklahoma, 1923, is hereby amended to read as follows:

“Section 4. There is hereby created the office of attorney; and the office of assistant attorney for the period of one (1) year, from the passage of this Act, for the State Banking Department, who shall be appointed by the Banking Commissioner, subject to the approval of the Banking Board, who shall each have had at least five (5) years’ actual experience in the practice of law in the State of Oklahoma. The Attorney for the Banking Department shall receive a salary of \$5,000.00 per annum, and the assistant attorney for the Banking Department shall receive a salary of \$4,000.00 per annum, and each shall be paid his traveling expenses, including only railroad fare, livery hire, telephone, telegraph and hotel bills while on business of the Department, payable monthly, out of the General Revenue Fund of the State; provided, that the attorney and the assistant attorney for the Banking Department shall not engage in the practice of law during their tenure of office, except following their duties as attorney for the Banking Department, and a violation of this provision shall be grounds for disbarment.”

History. Sec. 2, C. 81, S. L. 1924; rep. Sec. 4, C. 220, S. L. 1923.

Note: One year limitation: The position of assistant attorney expired in one year. The position of additional attorney created by C. 50, L. 1925, to expire June 30, 1927.

69. Same—Powers and Duties.

Section 5. Said attorney, as provided under this section, shall have and possess the same powers and authority of County Attorney in criminal prosecutions, for any violations of the Banking Laws of this State, and may file complaints and informations, and appear before Grand Juries, and secure indictments against all persons for the violation of any of the criminal laws of this State, in connection or growing out of the operation or liquidation of any bank or trust company operating under the laws of this State.

Also, in civil cases in the collection of any assets both personal and real now in the hands of the Bank Commissioner or may hereafter come into his possession by virtue of his office on which the State has a lien, and perform such other legal services for the Banking Department as he may be directed by the Bank Commissioner and the Banking Board.

History. Sec. 7, C. 220, S. L. 1923.

70. Chief Clerk—Salary.

Section 6. There is hereby created and established the position of Chief Clerk of the Banking Department, who shall be appointed by the Bank Commissioner, subject to the approval of the Banking Board who shall have had at least three years' experience in bookkeeping and accounting. The salary of the Chief Clerk shall be \$2400.00 per annum payable monthly out of the General Revenue Fund of the State.

History. Sec. 6, C. 220 S. L. 1923.

71. Bonding Clerk.

Section 7. There is hereby created the position of Bonding Clerk for the Banking Department who shall be appointed by the Bank Commissioner subject to the approval of the Banking Board who shall have had at least three years' office experience. The Bonding Clerk for the Banking Department shall receive a salary of \$1800.00 per annum, payable monthly out of the General Reserve Fund of the State.

History. Sec. 7, C. 220, S. L. 1923.

72. Stenographers—Salary.

Section 8. There is hereby created and established three positions, each to be known as stenographers for the Banking Department, all of whom shall have had at least three years' actual stenographic experience.

Said stenographers for the Banking Department shall each receive a salary of \$1500.00 per annum, payable monthly out of the General Revenue Fund of the State.

History. Sec. 8, C. 220, S. L. 1923.

73. Additional Attorney: Law Clerk and Stenographer.

Section 1. In addition to the office of Attorney, now created in the Banking Department, there is hereby created the office of another Attorney for the Banking Department, who shall be appointed by the Bank Commissioner, subject to the approval of the Banking Board, and who shall have had at least five (5) years' actual experience in the practice of law in this State. Such attorney shall receive a salary of four thousand (\$4,000.00) dollars per annum, and shall be paid traveling expenses, including railroad fare, livery hire, telephone, telegraph and hotel bills, while on business for the Department, payable monthly out of the general revenue funds of the State. Such additional attorney shall not engage in the practice of law during his tenure of office, except in the performance of his duties as Attorney for the Banking Department, and a violation of this provision shall be grounds for disbarment.

Section 2. There is hereby created the office of Law Clerk in the Banking Department and such clerk shall be a licensed, admitted and practicing attorney in the State of Oklahoma, who shall receive a salary of Two Thousand Four Hundred (\$2,400.00) Dollars, per annum, payable monthly out of the general revenue funds of the State, and who shall be paid his traveling expenses,

History. S. B. 210, S. L. 1925, approved March 25, 1925.

Note: Position of assistant attorney expired March 17, 1925, and this creates another attorney.

74. Banks to be Examined Twice Each Year. It shall be the duty of the bank commissioner, or one of his assistants, to visit every bank or trust company subject to the provisions of this chapter at least twice each year, and oftener if he deem it advisable, for the purpose of making a full and careful examination and inquiry into the condition of the affairs of such bank or trust company and for that purpose the bank commissioner and his assistants are hereby authorize and empowered to administer oaths and to examine under oath the stockholders and directors and all officers and employees and agents of such banks or other persons. The commissioner shall reduce the result thereof to writing, which shall contain a full, true and careful statement of the condition of such bank or trust company, and file and retain the same in his office.

History. Sec. 4229 C. O. S. 1921; R. L. 337; S. L. 1907-8, p. 144.

75. Fees for Examination.

Section 10. The Bank Commissioner shall charge and collect for each examination of banks under his supervision the following fees:

(a) From banks having a capital stock of less than \$25,000.00, a fee of \$20.00.

(b) From banks having a capital stock of \$25,000.00 and less than \$50,000.00, a fee of \$27.50.

(c) From banks having a capital stock of \$50,000.00 and less than \$100,000.00, a fee of \$32.50.

(b) From banks having a capital stock of \$100,000.00, a fee of \$35.00.

(e) From banks having a capital stock of more than \$200,000.00, a fee of \$37.50.

(f) On each \$1000.00 of resources, or major fraction thereof, at date of examination, 2 cents.

The latter fee shall be in addition to the charges made on the basis of capital stock, and all of said fees shall be paid into the State Treasury and accrue to the General Revenue Fund of the State.

History. Sec. 10, C. 220, S. L. 1923.

76. Reports to be Called For. The bank commissioner shall have power at any time when he deems it necessary, to call upon any bank or trust company organized under the laws of this State for a report of its condition upon any given day which is past and as often as the bank commissioner may deem it necessary; provided, that he shall require at least four such reports during each and every calendar year. A copy of each call made by the bank commissioner shall be mailed to each such bank.

History. Sec. 4232 C. O. S. 1921; R. L. 340; S. L. 1907-8, p. 144.

DEPARTMENTAL HEADS TO REPORT ITEMS OF INDEBTEDNESS.

77. Items of Indebtedness—Reports.

Section 1. That on the 1st day of January, April, July and October of each year the heads of all departments of State Government and the heads of all State institutions shall report to the State Board of Affairs on forms prescribed by the Attorney General all items of indebtedness, other than taxes, which have been due the State of Oklahoma or any department or institution thereof for more than sixty (60) days by any person, firm, or corporation or county.

State Board of Affairs.

Section 2. That on the 15th day of January, April, July and October of each year the State Board of Affairs shall furnish the Attorney General on forms prescribed by said Attorney General a compiled report based on the reports required under the provisions of section 1 hereof. Upon receiving any such compiled report from said Board, it shall be the duty of the Attorney General

to institute necessary proceedings to collect all items of indebtedness shown in said compiled report.

History. C. 96, S. L. 1924.

This does not apply to affairs of insolvent state banks. Their debts are to creditors and thru the commissioner, the state winds up their affairs.

78. Commissioner to Wind Up Affairs of Banks, When. Whenever any bank or trust company organized or existing under the laws of this State shall voluntarily place itself in the hands of the bank commissioner, or whenever any judgment shall be rendered by a court of competent jurisdiction, adjudging and decreeing that such bank or trust company is insolvent, or whenever its right or franchises to conduct a banking business under the laws of this State have been adjudged to be forfeited, or whenever the bank commissioner shall become satisfied of the insolvency of any such bank or trust company, he may, after due examination of its affairs, take possession of said bank or trust company and its assets, and proceed to wind up its affairs and enforce the personal liability of the stockholders, officers and directors.

History. Sec. 4165 C. O. S. 1921; R. L. 302; S. L. 1907-8, p. 140.

Where Commissioner takes assets of insolvent bank, he does not take same for value without notice but subject to all claims and defenses that might be interposed against the bank.

Bailey vs. State; 72 Okla. 203, 179 Pac. 615.

Ward vs. Bank, 51 Okla. 193, 151 Pac. 852.

Briscoe vs. Hawer, 50 Okla. 287, 150 Pac. 1101.

In the absence of evidence, presumption is Bank Commissioner did everything required by law in selling assets of insolvent bank.

Williamson H. F. vs. Bank 68 Okla. 40, 171 Pac. 453.

This section authorizes bank to voluntarily surrender its assets for liquidation.

U. S. vs. Oklahoma 261 U. S. 253, 67 L. ed. 638, 43 S. Ct. 295.

Taking a state bank by the Commissioner is not a voluntary assignment nor an act of bankruptcy in meaning of Sec. 3466, Rev. Stat. U. S.

U. S. vs. Oklahoma supra.

Strain vs. U. S. F. & G. 292 Fed. 696.

The term "wind up" embraces the entire process of liquidation.

Kimbriel vs. State 106 Okla. 177, 233 Pac. 420.

State ex rel vs. Norman 86 Okla. 36, 206 Pac. 522.

White vs. State ex rel 94 Okla. 220 Pac. 624.

Statute of limitation does not run against state on a note held by Bank Commissioner as assets of insolvent bank.

White vs. State (supra).

State vs. Smith 77 Okla. 277, 188 Pac. 96.

State vs. Bank 88 Okla. 154, 212 Pac. 321.

State vs. Ware 82 Oklaa. 130, 198 Pac. 859.

Bank Commissioner has no lien superior to that of a pledge upon collateral to a loan given by bank prior to failure.

Commerce Trust Co. vs. State 59 Okla. 14, 157 Pac. 717.

79. Failed Banks—Repair of Credit.

Section 7. That Section 4169 of the Compiled Oklahoma Statutes, annotated, 1921, be and the same is hereby amended to read as follows:

“Section 4169. After the Bank Commissioner shall have taken possession of any bank or trust company which is subject to the provisions of this Chapter, the stockholders thereof may repair its credit, restore or substitute its reserves, and otherwise place it in condition so that it is qualified to do a general banking business as before it was taken possession of by the Bank Commissioner; but such bank shall not be permitted to reopen its business until the Bank Commissioner, after a careful investigation of its affairs, is of the opinion that its stockholders have complied with the laws, that the bank's credit and funds are in all respects repaired, and its reserve restored or sufficiently substituted, and that it should be permitted again to reopen for business; whereupon said Bank Commissioner is authorized to issue written permission for reopening of said bank in the same manner as permission to do business is granted after the incorporation thereof, and thereupon said bank may be reopened to do a general banking business.

History. Sec. 7, C. 137, S. L. 1923; amending Sec. 4169 C. O. S. 1921; R. L. 306.

This section is only provision by which an insolvent bank may reorganize.

Bank vs. Lee, 65 Okla. 280, 166 Pac. 186.

Western Casualty Co. vs. Bank 68 Okla. 181, 172 Pac. 954.

Commissioner may accept note and mortgage and sue on same.

Marshall vs. State 59 Okla. 243, 158 Pac. 1166.

Bank Commissioner has no power to sell assets of insolvent bank without approval of District Court or a Judge thereof and such attempted sale is void unless approved.

National Surety Co. vs. Bank 74 Okla. 176, 177 Pac. 574.

80. Liquidating Agents and Attorneys.

Section 1. That Section 3, Chapter 137, of the Session Laws of Oklahoma, 1923, be, and the same is hereby amended to read as follows:

“Section 3. In the event the Bank Commissioner shall proceed to wind up the affairs of any bank or trust company, as provided for in Section 4165, Compiled Oklahoma Statutes, Annotated, 1921, the Bank Commissioner may appoint such liquidating agents, attorneys and employees as may be necessary to assist in the liquidation of the assets of said failed bank. Such liquidating agents shall, before entering upon the duties of their office, execute to the State of Oklahoma, a fidelity bond in such amount as the Bank Commissioner shall designate, such bond to be approved by the Bank Commissioner and filed in his office. The bond of such liquidating agent shall be conditioned upon the faithful accounting to

the Bank Commissioner for all moneys, funds and assets as shall come into his possession as such liquidating agent upon the demand of the Bank Commissioner. The compensation of such liquidating agents or attorneys shall not exceed the sum of \$4,000 per year. Such liquidating agents and attorneys shall hold their office at the will and pleasure of the Bank Commissioner and such liquidating agents shall submit to the Bank Commissioner a verified monthly account, giving in detail a statement of all receipts and disbursements made from the assets in their possession, and each three months after the appointment of such liquidating agent, he shall file with the Court of the County, in which the said bank was located, a complete statement setting forth in detail all receipts and disbursements for such period of time. No disbursements of the assets of the said banking corporation, shall be made, except upon the order of the Bank Commissioner. The Bank Commissioner shall have power and authority to institute and prosecute all suits necessary for the liquidation of the assets of the insolvent corporations taken over by him and such suits shall be brought in the name of the State of Oklahoma on the relation of the Bank Commissioner. If, after the liquidation of such insolvent corporation, wherein the depositors and creditors of said insolvent corporation shall have been paid in full, there remain in the hands of the Bank Commissioner any assets, such remaining assets shall revert to the stockholders of said insolvent corporation. Nothing in this amendment shall operate to deprive the State of Oklahoma of any lien that it may have on the assets of any bank that may have been adjudged insolvent prior to the passage and approval of this Act."

History. Sec. 1, C. 80, S. L. 1924; amending Section 3, C. 137, S. L. 1923, and Sec. 4166 C. O. S. 1921; R. L. 303.

Prior to C137, L. 1923, there was no authority for appointments of liquidating agent by courts.

In re Liq. Bank 110 Okla. 295, 237 Pac. 603.

State ex rel vs. Norman 86 Okla. 36, 206 Pac. 522.

Reeves vs. Noble 88 Okla. 179, 212 Pac. 998.

81. Notice—Resumption of Business—Debts.

Section 2. On taking possession of the property of any bank, the bank commissioner shall forthwith give notice of such fact to all banks, trust companies and individual firms or persons holding or in possession of its assets. No bank, trust company, savings bank, firm or individual, knowing of such taking possession by the bank commissioner or notified as aforesaid, shall have a lien or charge for any payment, advance or clearance thereafter made or liability thereafter incurred against any of its assets. Such bank may, with the consent of the Bank Commissioner, resume business upon such conditions as may be approved by him. Upon taking possession of the property and business of such bank the commissioner is authorized to collect money due it and do such other acts as are necessary to conserve its assets and business and shall proceed to

liquidate the affairs thereof, as hereinafter provided. The commissioner shall collect all debts due and claims belonging to it and, upon the order of the District Court of the County in which it is doing business, may sell or compound all bad or doubtful debts and, on like order, may sell all its real and personal property on such terms and at public or private sale, as the court shall direct, and shall enforce the liability of stockholders of such bank.

History. Sec. 2, C. 80, S. L. 1924; repealing Sec. 4167 C. O. S. 1921; R. L. 304.

Bank Commissioner had no power to sell assets except upon order of Court or Judge thereof.

National Surety Co. vs. Bank 74 Okla. 176, 177 Pac. 574.

Presumption is Commissioner obtained Court order.

Williamson vs. State 68 Okla. 40, 171 Pac. 453.

82. Stockholders' Liability Due on Failure.

The stockholders' liability of such bank shall become due and payable upon the date of the taking possession of the property of any such bank by the bank commissioner, and the order of the bank commissioner finding the bank to be insolvent shall be conclusive evidence of that fact and the liability of said stockholders shall bear interest at the rate of six (6%) per cent per annum from the date of the taking possession of the property of such bank by the bank commissioner.

History. Part of Sec. 2, C. 80, L. 1924.

83. Compound Double Liability to Guaranty Fund.

Section 1. That the Bank Commissioner of the State of Oklahoma be and he hereby is authorized to sell or compound the additional liability of stockholders of insolvent State banks which may be due and payable to the Guaranty Fund of the State of Oklahoma upon an order of the district court or a judge thereof of the county in which said insolvent State Bank was doing business; provided, that this act shall not apply to the liquidation of any bank where no moneys were expended from the Guaranty Fund; or warrants issued against the Guaranty Fund; or contracts in lieu of guaranty fund warrants.

History. S. B. 191, S. L. 1925.

84. Claims—Notice to Creditors.

Section 3. Immediately on taking charge of any failed bank, the commissioner shall cause notice to be given by advertisement in such newspapers as he may direct weekly for eight consecutive weeks, calling on all persons who may have claims against such bank to present the same to him and make legal proof thereof at a place and at a time to be fixed by the Commissioner. The Commissioner shall mail a similar notice to all persons whose names appear as creditors. If the Commissioner doubts the justice and the validity of any claim, he may reject the same, serve notice of

such rejection upon the claimant, either by mail or personally, and affidavit of the service of such notice, which shall be prima facie evidence thereof, shall be filed with the Commissioner. Claims presented after the expiration of the notice fixed for creditor shall be entitled to share in the distribution only to the extent of the assets in the hands of the Commissioner equitably applicable thereto.

History. Sec. 3, C. 80, S. L. 1924.

85. Inventory—Compensation.

Section 4. Upon taking possession of the property or the assets of such bank, the commissioner shall make an inventory of the assets in duplicate; one to be filed in the office of the commissioner, one in the office of the Court Clerk of the County in which the said bank was doing business, and the Court Clerk of said County shall give such case a number on the District Court docket. Upon the expiration of the time fixed for the presentation of claims, the commissioner shall make in duplicate a full and complete list of the claims presented and specifying such claims as have been rejected by him; one to be filed in the office of the commissioner and one in the office of the Court Clerk in the County in which the said bank was located; such inventory and lists of claims shall be open at all reasonable times for inspection.

History. Sec. 4, C. 80, S. L. 1924.

Note: Prior to Act C. 137, S. L. 1923, no report was required to be filed in District Court. This Act repeals Sec. 3, C. 137, S. L. 1923. (See Sec. 11, C. 80, S. L. 1924).

86. Compensation of Agents and Attorneys—Notice to Banks.

The compensation of the liquidating agent, counsel and employees of such failed bank and all expenses of liquidation shall be fixed by the commissioner, subject to the approval of the District Court or a Judge thereof, on notice to the failed bank, and shall, upon the certificate of the commissioner, be paid out of the funds in the hands of the Commissioner derived from the assets of such bank. The notice to such bank shall be served on any person authorized by law to receive on a banking corporation in the State of Oklahoma, such notice of such hearing may be served by any person and shall designate the time and the place of such hearing, which hearing shall not be less than five (5) days from the date of such service.

Note: Sec. 4 is divided into this and prior section for convenience. (See 3, C. 137, S. L. 1923, repealed).

87. Assets Collected and Deposited.

Section 5. The moneys collected by the commissioner shall be from time to time deposited in one or more banks of deposit, savings bank or trust companies, and, as security therefor, shall take such security as is required for the deposit of other public funds.

History. Sec. 5, C. 80, S. L. 1924.

88. Dividends—Partial and Final.

At any time after the expiration of the date fixed for presentation of claims, the commissioner may, out of the funds remaining in his hands for the payment of expenses, declare one or more dividends and, after the expiration of one year from the first publication notice to creditors, may declare a final dividend; such dividend to be paid to such persons and in such amount and upon such notice as may be directed by the District Court or a Judge thereof. Objections to any claim not rejected by the commissioner may be made by any party interested by filing a copy of such rejection with the commissioner, who shall present the same to the District Court or a Judge thereof at the time of the next application to declare a dividend. The Court thereupon shall make such order as is necessary in allowing or disallowing such claim or any part thereof.

History. Sec. 5, C. 80, S. L. 1924.

Note: This and prior section divided for convenience.

89. Dividends—Reversion—Limitations.

Section 6. Dividends remaining unpaid in the hands of the commissioner for six months after the order for final distribution shall be by him deposited in one or more banks, trust companies or savings banks to the credit of the commissioner, in his name of office, in trust for the several depositors and creditors of the liquidated corporation from which they were entitled thereto; and no provision shall be made for paying unclaimed deposits unless proof of claim has been made as provided hereunder within two years from the date on which the Bank Commissioner takes over the assets of the liquidated corporation and the owners of such unclaimed deposits shall be forever barred from participating in any of the assets of said corporation, unless proof of claim is so made within the said two years. All such unclaimed deposits and funds remaining in the hands of the bank commissioner at the end of the said two (2) years shall revert to the State of Oklahoma and shall be delivered by the Bank Commissioner to the State Treasurer as other fees earned by the State Banking Department.

History. Sec. 6, C. 80, S. L. 1924.

90. Collateral—Redemption of.

Section 7. Whenever the Commissioner shall take charge of the affairs of any bank under the provisions of this Act, he shall have the right within 120 days thereafter to redeem any collateral which may have been previously pledged by said bank as security for any debt of said bank, and no sale of such collateral within said 120 days by anyone holding the same shall be valid, and this section shall be considered as constituting a part of every contract by which such collateral may be pledged, as aforesaid. The Bank Commissioner may, if he deems proper, after having produced the authority so to do by the District Court or a Judge thereof of the

County in which said bank was located, pay off out of the assets of said failed bank any prior liens or claims against any of the assets of said bank.

History. Sec. 7, C. 80, S. L. 1924.

91. Real Estate—Prior Mortgages—Limitations.

Section 7. The holder or owner of any lien against any of the real property belonging to such bank and in the hands of the Bank Commissioner or on which real property the bank has a lien, **shall not be foreclosed** or any proceedings be taken thereon for a period of twelve (12) months from the date the assets of said bank were taken over by the Bank Commissioner, except by the consent of the Bank Commissioner and during the said period, no Court in the State of Oklahoma shall have jurisdiction to foreclose any such lien or mortgage on such real estate except with the permission and on the application of the Bank Commissioner.

History. Sec. 7, C. 80, S. L. 1924.

Note: Liens on personal and real estate separated for convenience. Evidently it was intended that the holder could not foreclose.

92. Title in State—Cost Deposits.

Section 7. The State of Oklahoma, on the relation of the Bank Commissioner, shall be deemed to be the owner of all of the assets of failed banks in his hands for the use and benefit of the depositors and creditors of said bank, and no deposit for cost shall be required in any courts of the State of Oklahoma, in which the State of Oklahoma, on the relation of the Bank Commissioner, is a party and no costs shall be taxed against the State of Oklahoma and paid by the State of Oklahoma, on the relation of the Bank Commissioner, in any such suits, and it shall be the duty of all the Courts of the State of Oklahoma and all the officers of the State or County to give preference to all matters pending in such Courts in which the State of Oklahoma, on the relation of the Bank Commissioner, is a party.

History. Sec. 7, C. 80, S. L. 1924.

Note: By C. 203 L. 1923, the state is not required to execute any bond of any character.

93. Assets—Sale—Compound.

Section 8. None of the assets of any such failed bank shall be sold, or bad and doubtful debts compounded by the Bank Commissioner, except on the order of the District Court, and the failed bank must be notified of the hearing of any such application before any such District Court or a Judge thereof for at least five (5) days prior to such hearing. Such notice may be served by any person and a service be made on the persons designated by law to receive service on a banking corporation.

History. Sec. 8, C. S. L. 1924.

94. Assets—Guaranty Fund—Title.

Section 9. The title to the assets of failed banks belonging to the State Guaranty Fund is hereby vested in the Bank Commissioner for the purpose of liquidation and the said Bank Commissioner is authorized to liquidate such assets in the same manner that the assets of other banks are liquidated, and the proceeds of such liquidation, and the proceeds thereof shall be paid into the State Guaranty Fund for the purpose of retiring the outstanding Guaranty Fund Warrants.

History. Sec. 9, C. 80, S. L. 1924.

With repeal of Guaranty Law, title to assets was left "in air" and by this section the Commissioner can reduce to cash.

95. Retroactive Act.

Section 10. The provisions of this Act shall apply to all banks now in liquidation, as well as all banks that fail after the passage and approval of this Act; provided, this Act shall not apply to any bank which was taken over by the Bank Commissioner more than two (2) years prior to the passage and approval of this Act.

History. Sec. 10, C. 80, S. L. 1924.

Note: Act approved March 22, 1924. This section refers to Sections 80 to 94 inclusive of this compilation except Sec. 83.

96. Surety Companies—Participation.

Section 4. That Section 4189 of Compiled Oklahoma Statutes Annotated, 1921, be and the same is hereby amended to read as follows:

"Section 4189. On and after the passage and approval of this Act, in all cases where a Surety Company is compelled to pay or voluntarily pays a depository bond securing the payment of deposits of any State, County, Municipal or other public funds for which it is liable in a failed bank operating under the laws of this State, such surety company shall be entitled to participate in a pro rata division of the proceeds of the assets of any such bank, including the liability of its officers, stockholders and directors with the depositors of said bank; and the Bank Commissioner shall have exclusive control of the administration and collection of the assets of failed banks for payment of depositors until the depositors shall have been fully reimbursed or the liquidation of said bank completed, and the Bank Commissioner and his liquidating agent shall pay to such surety company the pro rata share of the proceeds of such assets from time to time as collections from such assets are made; and such surety company in writing such a depository bond for any such bank, specifically agrees to such administration, and that the Bank Commissioner's jurisdiction shall be exclusive; provided, that the provisions of this Section do not apply to state banks that failed prior to the passage and approval of this Act."

History. Sec. 4, C. 137, 1923 S. L., amending Sec. 4189. C. O. S. 1921.
Ann. Old act (4189) unconstitutional.
State ex rel vs. Johnson 90 Okla. 21, 215 Pac. 945.

VIOLATIONS OF BANK LAWS

97. Officer—Borrowing Money.

Section 1. That Section 4127 of Compiled Oklahoma Statutes Annotated, 1921, be and the same is hereby amended to read as follows:

“Section 4127. It shall be unlawful for any active managing officer of any bank organized or existing under the laws of Oklahoma, to borrow, directly or indirectly, money from the bank with which he is connected; and the officer making or authorizing a loan to any person, as well as the person receiving the same, shall be deemed guilty of the larceny of the amount borrowed and shall be punished by imprisonment in the penitentiary for not less than five (5) years nor more than fifteen (15) years.

History. Sec. 1, C. 137, S. L. 1923: amending Section 4127, C. O. S. 1921; R. L. 270.

President of Bank, member of Board of Directors is within prohibition of this statute.

Bank vs. Bank 56 Okla. 529, 156 Pac. 352.

Eubank vs. Bank 216 Fed. 833, 133 C. C. A. 37.

Loan made in violation of this statute not void, and debtor cannot defeat recovery of such ground.

Schuber vs. McDuffee 67 Okla. 160, 169 Pac. 642.

Loan by Cashier of bank funds to another with whom cashier was partner is violative of this section and cashier cannot retain the profits therefrom.

Sharpe vs. Wright 88 Okla. 16, 211 Pac. 71.

This act applies only to actual managing officers of banks and not to intermediary used by bank official to obtain illegal loan.

Ernest vs. State 16 Okla. Cr. 507, 184 Pac. 793.

Such intermediary is not an accomplice.

Ernest vs. State (supra).

The Bank officer who is beneficially interested in said loan violates this statute.

Ernest vs. State (supra).

98. False Reports—Penalty. Every officer, director, agent or clerk of any bank doing business under the laws of the State of Oklahoma who shall wilfully and knowingly subscribe to or make any false report or any false statement or entries in the book of such bank, or knowingly subscribe to or exhibit any false writing or paper, with the intent to deceive any person as to the condition of such bank, shall be deemed guilty of a felony, and shall be punished by a fine not to exceed one thousand dollars, or by imprisonment in the penitentiary not exceeding five years, or by both such fine and imprisonment.”

History. Sec. 4126 C. O. S. 1921; R. L. 269; S. L. 1907-1908, p. 131.

This statute makes violation thereof a felony but does not make a note given for the benefit of bank void.

Leonard vs. Bank 236 Fed. 316.

An information charging substantially the language of the statute is sufficient.

Anderson vs. State (Okla.) 205 Pac. 510.

Anderson vs. State (Okla.) 207 Pac. 977.

Books and records of a bank, properly identified are admissable in evidence.

Appleget vs. State (Okla.) 243 Pac. 251.

They are evidence of its condition and to show knowledge of insolvency to officer thereof.

Appleget vs. State (supra).

Report and criticism of bank by examiner is admissable.

Appleget vs. State (supra).

Hays vs. State (Okla. Cr.) 210 Pac. 729.

Mathews vs. State (Okla.) 198 Pac. 113.

State vs. Welty 65 Wash. 244, 118 Pac. 10.

99. Receiving Deposits While Insolvent—Penalty. No bank shall accept or receive on deposit, with or without interest, any money, bank bills or notes, or United States treasury notes, gold or silver certificates, or currency, or other notes, bills, checks, or drafts, when such bank is insolvent; and any officer, director, cashier, manager, member, party or managing party of any bank who shall knowingly violate the provisions of this section, or be accessory to or permit or connive at the receiving or accepting of any such deposit, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment in the penitentiary not exceeding five years, or by both such fine and imprisonment.

History. Sec. 4128 C. O. S. 1921; R. L. 271; S. L. 1907-8, p. 132.

A Bank is insolvent within meaning of this section when the actual cash market value of its assets is not equal to its debts and liabilities and when it is unable by pledging its assets and credit to raise in a reasonable time funds to meet its debts and pay depositors in the ordinary course of business.

Appleget vs. State (Okla.) 243 Pac. 251.

This section covering insolvency, not controlled by Sec. 4135 C. O. S. '21.

Appleget vs. State (supra).

Where cashier induces depositor to leave money on deposit by false representations as to banks condition, he is personally liable to such depositor in event of failure.

Hughes vs. Martin 81 Okla. 89, 196 Pac. 953.

The Bank Commissioner is a "party or managing party" as is defined this statute.

State vs. Dennis (Okla. Cr.) 230 Pac. 935.

Insolvency may be proven by general reputation when properly restricted.

Appleget vs. State (supra).

Ellis vs. State 138 Wis. 513, 119 N. W. 1110, 20 L. R. A. N. S. 44b.

Skardo vs. State 118 Ark. 176, 175 N. W. 1190.

Public records of banking department ore admissable in evidence.

Hays vs. State (Okla.) 210 Pac. 729.

Mathews vs. State (Okla.) 198 Pac. 113.

Appleget vs. State (supra).

Mannual receipt of deposit by bank officer not necessary. If insolvent and the officer knew it was insolvent, but permitted bank to run, he is guilty.

State vs. Mitchell 96 Miss. 259, 51 So. 4.

Appleget vs. State (supra).

100. False Advertising—Misuse of Term ‘Bank’. It shall be unlawful for any individual, firm, association or corporation to receive money upon deposit or transact a banking business except as authorized by the laws of the State of Oklahoma, or of the United States, or to use or advertise, in connection with any business other than the banking business, conducted under the banking laws of this State, the words: Banker, bankers, investment banker, or any other word or term calculated to deceive the public into belief that such person, firm, association or corporation, is engaged in the banking business. Any person, firm, association or corporation violating any of the provisions of this section, either individually or as an interested party, in any firm, association or corporation, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than three hundred dollars, (300.00), nor more than one thousand (1,000.00), or by imprisonment in the county jail not less than thirty days nor more than one year, or by both such fine and imprisonment, and it is hereby made the duty of the attorney General to enforce the provisions of this section; and in order to further prevent the violation of the section, any court of competent jurisdiction in this State is hereby authorized and empowered to grant an **injunction** and appoint a receiver to take charge of the business and assets of any person, firm, association or corporation found guilty of violating the provisions of this section, and to make all necessary and proper orders to wind up such business and prevent a violation of this section.

History. Sec. 4129 C. O. S. 1921; S. L. 1915, p. 98; Sec. 2, amending R. L. 272.

The privilege of engaging in banking business is a franchise, conferred only on corporations. No individual firm or corporation than a banking corporation can transact a banking business.

Levy vs. Reed 69 Okla. 180, 170 Pac. 497.

101. Embezzlement or Fraud A Felony. Every president, director, cashier, teller, clerk, officer or agent of any bank who embezzles, abstracts or wilfully misapplies any of the moneys, funds, securities or credits of the bank, or who issues or puts forth any certificate of deposit, draws any draft or bill of exchange,

makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment or decree, or who makes use of the bank in any manner with intent in either case to injure or defraud the bank or any individual, person, company or corporation, or to deceive any officer of the bank, and any person who, with like intent, aids or abets and officer, clerk or agent in any violation of this section, shall be deemed guilty of a felon, and upon conviction thereof shall be punished as provided herein.

History. Sec. 4142 C. O. S. 1921; R. L. 285; S. L. 1907-1908, p. 136.

Suit may be maintained against cashier for violating this section.

Swim vs. Bank 109 Okla. 266, 234 Pac. 612.

But cashier may show such acts as were done had the approval of the banking department and the other officers of the Bank.

Swin vs. Bank (supra).

Prosecution under general embezzlement statute instead of this section. Defendant cannot complain.

Snyder vs. State (Ok. Cr.) 240 Pac. 331.

102. Preference to Depositor—Penalty.

Section 2. That Section 4144 of Compiled Oklahoma Statutes, annotated 1921, be and the same is hereby amended to read as follows:

History. Sec. 4414, C. O. S. 1921; R. L. 287; S. L. 1923, Chapter 137, Sec. 2.

President of bank was guardian for minors and had funds in said bank belonging to minors and with knowledge of its condition demanded and took assets from bank to secure said deposit, held void.

Julius vs. State ex rel (Okla.) 237 Pac. 605 .

103. Penalty for False Swearing. Every officer or employee of a bank required by this chapter to take an oath or affirmation who shall wilfully swear or affirm falsely, shall be deemed guilty of perjury, and, upon conviction thereof, shall be punished as provided by the laws of this State in case of perjury.

History. Sec. 4154 C. O. S. 1921; R. L. 297; S. L. 1907-8, p. 139.

104. Crimes of Bankers and Employees. Every officer, director, employee or agent of any bank, who embezzles, abstracts, or wilfully misapplies any of the moneys, funds, credits or securities of the bank, with intent in either case to injure or defraud the bank or individual, person, company or corporation, or to deceive any officer of the bank, or the Bank Commissioner, or agent appointed to examine the affairs of such bank, and any person who with like intent aids or abets any officer, director, employee or agent of such bank in any violation of this section, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine not less than five hundred nor exceeding five thousand dollars and imprisonment in the penitentiary for a period not less than five years nor more than fifty years; and the principal of-

fenders and those aiding and abetting same may be charged in the same count, and separate offenses may be charged, in separate counts, in the same indictment and tried together.

History. S. L. 1913, p. 33, Sec. 12; C. O. S. 1921, Sec. 4178. C. 135, Sec. 1, L. 1923.

Where offense may be committed by use of different means, the methods may be alleged in the alternative in same count in information. Snoddy vs. State 235 Pac. 248.

105. Issues False Certificate of Deposit—Draft or Bill—Penalty. Every officer, director, employee or agent of any bank, who issues or puts forth any certificate of deposit, draws any draft or bill of exchange, makes any acceptance, assign any notes, bond, draft, bill of exchange, mortgage, judgment or decree, or who makes any use of the bank in any manner, with intent in either case to injure or defraud the bank or any individual, person, company or corporation, or to deceive any officer of the bank or Bank Commissioner, or any agent appointed to examine the affairs of such bank, and any person who with like intent aids or abets any such officer, director, employee or agent of said bank to violate this section, shall be guilty of a felony, and upon conviction shall be punished by a fine of not less than five hundred nor more than ten thousand dollars and by imprisonment in the penitentiary in for not less than five years, nor more than fifty years; and the principal offenders and aiders and abettors may be charged in the same count, and separate offenses of the above classes be charged in separate counts of the same indictment or information, and be tried together.

History. S. L. 1913, p. 34, Sec. 13; Sec. 4179 C. O. S. 1921; C. 135, Sec. 2, L. 1923.

106. Certify Check, Draft or Order Without Funds—Penalty. Every officer, director, employee or agent of any bank, who shall certify any check, draft or order drawn upon the bank unless the person, firm or corporation drawing such check or order has on deposit with the bank at the time such check, draft or order is certified, an amount of money equal to the amount specified in such check, and any person aiding or abetting any such officer, director, employee or agent of such bank so to do, shall be deemed guilty of a felony, and upon conviction shall be fined not more than five thousand dollars, or imprisoned not more than five years, or both such fine and imprisonment within the discretion of the court or jury fixing the punishment. And the principal offenders and the aiders and abettors may be charged in the same count, and separate offenses may be charged in separate counts of the same indictment or information, and be tried together.

History. S. L. 1913, p. 34, Sec. 14; Sec. 4180 C. O. S. 1921.

107. False Entry—Penalty. Every officer, director, employee or agent of any bank, who makes any false entry in any book, report or statement of the bank, with intent, in either case, to injure or defraud the bank or any other person, firm or corporation, or to deceive any officer of the bank, or the Bank Commissioner, or any agent appointed to examine the affairs of any such bank; and any person who, with like intent, aids or abets any such officer, director, employee or agent to violate this section, shall be deemed guilty of a felony, and upon conviction shall be punished by a fine not exceeding ten thousand dollars and by imprisonment in the penitentiary for a period not less than five years nor more than twenty-five years. And the principal offenders and aiders and abettors may be charged in the same count, and separate offenses may be charged in separate counts of the same indictment or information and be tried together.

History. S. L. 1913, p. 35, Sec. 15; 4181, C. O. S. 1921. Amended by Sec. 3, C. 135, L. 1923.

108. Disposal of Funds to Cause Insolvency. Every officer, director, employee or agent of any bank who shall wilfully dispose of any of the moneys, funds, credits or securities of such bank, or make, or counsel, or aid in making, or in causing such bank to make any contract or agreement, the effect of which would be to reduce the value of the assets of said bank, or increase the liabilities or indebtedness of said bank, with the intent, in either case, to accomplish or to aid in accomplishing the insolvency of such bank, and thereby to injure or defraud said bank or any other person, firm, or corporation, or to cause the depositors of said bank to be paid out of the Guaranty Fund, or from other funds, or by other securities or means than the money, funds, credits, and securities of said bank; and any person aiding any such officer, director, employee or agent to violate this section, shall be deemed guilty of a felony, and upon conviction shall be punished by a fine not exceeding five thousand dollars, and by imprisonment not less than five years nor more than twenty-five years, and any wilful violation of any of the orders, rules, or requirements of the Banking Board, or of the Bank Commissioner; or of any agent appointed to examine the affairs of such bank, or any law relative to the conduct of banks, by any such officer, director, employee or agent of such bank, shall be prima facie evidence of his intention to accomplish such fraudulent insolvency of said bank. And the principal offenders, aiders and abettors may be charged in the same count, and separate offenses may be charged in separate counts of the same indictment or information, and be tried together.

History. S. L. 1913, p. 35, Sec. 16; Sec. 4182 C. O. S. 1921. Amended Sec. 4, C. 135, L. 1923.

A bank officer who wilfully disposes of its assets, which reduces the value thereof with intent to accomplish insolvency is guilty of felony.

Appleget vs. State 242 Pac. 1056.

109. Issuing False Draft or Cceck. Every officer, director, employee or agent of any bank, who shall, with intent to defraud, knowingly issue any check, bill of exchange, draft or other order for the payment of money, upon or against any bank, without first having, with such bank, money sufficient for its payment, or who, with intent, falsely makes, forges or alters any check, bill of exchange, draft or other order for the payment of money, purporting to be drawn upon or against any bank, or who shall, with like intent, knowingly pass, utter, publish, or sell or knowingly attempt to pass, utter, publish, or sell any check, bill of exchange, draft, or other order for the payment of money, drawn upon or against any bank, with which the drawer has not moneys sufficient for its payment, or any such falsely made, forged or altered check, bill of exchange, draft or other order for the payment of money, shall be deemed guilty of a felony, and upon conviction be punished by a fine of not less than one hundred dollars nor more than five thousand dollars, or by imprisonment for not less than one year nor more than five years, or by both such fine and imprisonment. And the principal offenders and aiders and abettors may be charged in the same count, and separate offenses may be charged in separate counts of the same indictment or information, and be tried together.

History. S. L. 1913, p. 36, Sec. 17; Sec. 4183 C. O. S. 1921.

110. Loan of Funds Without Consent of Board of Directors, to Person or Partnership in Which Banker Interested. Every officer, director, employee or agent of any bank who shall, without having the written authority or consent of all of the board of directors of such bank, loan or advance any of the funds of the bank with which he is officially connected, to any person, firm, company or corporation with which he is associated in business, either directly or indirectly, shall be guilty of a felony, and upon conviction thereof, shall be punished by a fine not less than one hundred dollars nor to exceed one thousand dollars, or by imprisonment in the penitentiary not less than one year nor to exceed three years; or by both such fine and imprisonment. And the principal offenders and aiders and abettors may be charged in the same count. Separate offenses may be charged in separate counts of the same indictment or information, and be tried together.

History. S. L. 1913, p. 37, Sec. 18: Sec. 4184 C. O. S. 1921.

111. False Statements Relating to Banks—Punishment. Every person who shall publish, utter, or circulate any false, malicious unprivileged statement or representation for the purpose of injuring any banking association chartered and existing under and by virtue of the laws of the State of Oklahoma, shall be guilty of a felony, and, on conviction, shall be punished by a fine not less than

one hundred dollars nor more than one thousand dollars, or imprisonment in the penitentiary not less than one year nor more than five years, or by both such fine and imprisonment.

History. S. L. 1913, p. 38, Sec. 19; Sec. 4185 C. O. S. 1921.

112. Destruction or Concealment of Bank Records. Every officer, director, employee or agent of any bank who for the purpose of concealing any fact or suppressing evidence against himself or other persons, abstracts, removes, destroys, or secrets any papers, books, or records, of any bank from such bank, or the house in which such bank carries on its business, or from the custody of the Bank Commissioners or the Banking Board, shall be guilty of a felony and on conviction thereof shall be fined in any sum not less than one hundred dollars and not to exceed one thousand dollars, and imprisonment in the penitentiary not less than one year and not to exceed three years. And the principal offenders and aiders and abettors may be charged in the same count, and separate offenses may be charged in separate counts of the same indictment or information, and be tried together.

History. S. L. 1913, p. 38, Sec. 20; Sec. 4186 C. O. S. 1921.

113. Corruption or Neglect by Commissioner A Felony. Any bank commissioner or assistant bank commissioner who shall neglect to perform any duty herein provided for, or who shall make any false statement concerning any bank, or who shall be guilty of any misconduct or corruption in office, shall, upon conviction thereof, be deemed guilty of a felony, and punished in the manner herein provided, and in addition thereto shall be removed from office.

History. R. L. 341; S. L. 1907-8, p. 144; Sec. 4233, C. O. S. 1921.
Punishment under this section is fixed under Sec. 4139 C. O. S. 1921.
State vs. Dennis (Ok. Cr.) 230 Pac. 935.

114. County Attorneys to Enforce Law. It shall be the duty of the bank commissioner to inform the county attorney of the county in which the bank is located of any violation of any provision of this chapter constituting a misdemeanor or felony, by the officers, owners or employees of any bank; and upon receipt of such information the county attorney shall institute proceedings to enforce the provisions of this chapter.

History. R. L. 342; S. L. 1907-8, p. 144; Sec. 4234 C. O. S. 1921.
Punishment under this statute construed with 4233 C. O. S. 1921 and fixed under 4139 C. O. S. 1921.
State vs. Dennis (Okla. Cr.) 230 Pac. 935.

114-a. Penalty for Violations. Every banker, officer, employee, director or agent of any bank who shall neglect to perform any duty required by this chapter, or who shall fail to conform to any lawful requirements made by the bank commissioner, shall be deemed guilty of a felony, and upon conviction thereof shall be

punished by a fine not to exceed one thousand dollars, or by imprisonment in the penitentiary not to exceed five years, or by both such fine and imprisonment.

History. Sec. 4139, C. O. S. 1921, R. L. 282; 1907-8, p. 135.

This section fixes punishment for violation of Sec. 4233 C. O. S. 1921, Sec. 113.

State vs. Dennis (Ok. Cr.) 230 Pac. 935.

TRUST COMPANIES

Section 1. That Section 4190, Article IV, Chapter 24, Compiled Oklahoma Statutes 1921, is hereby amended to read as follows:

“Section 4190. Any five (5) or more persons who shall have associated themselves by articles of agreement in writing, as provided by law, for any of the purposes included under Section 4194, of Article IV, Chapter 24, Compiled Oklahoma Statutes, 1921, may be incorporated under any name or title designating such business. The articles or agreement shall set out:

“First. The corporate name of the proposed corporation, which shall not be the name of any other corporation heretofore incorporated in this State for similar purposes, or any imitation of such name.

“Second. The name of the city or town and county in which the corporation is to be located.

“Third. The amount of the capital stock of the corporation authorized by the Articles of Agreement, the number of shares into which it is divided, the amount of capital stock actually subscribed in good faith at the time of the filing of said Articles, which shall be in cities and towns of ten thousand (10,000) or less population, twenty-five Thousand, (\$25,000.00) Dollars, and in cities and towns of more than ten thousand (10,000.00); and not more than twenty-five thousand (25,000) population, the same shall be not less than One Hundred Thousand (\$100,000.00) Dollars, and in all cities of more than twenty-five thousand (25,000) population, the same shall be not less than Two Hundred Thousand (\$200,000.00) Dollars, and said Articles shall further state that the capital so subscribed has been actually paid up in lawful money of the United States and is in the custody of the persons named as the first board of directors or managers.

“Fourth. The name and place of residence of the several shareholders, and the number of shares subscribed by each.

“Fifth. The names of the board of directors or managers and the names of those agreed upon for the first year.

“Sixth. The number of years the corporation is to continue, which shall be fifty (50) years, or may provided that the existence of the corporation shall continue until the corporation shall be dissolved by consent of the stockholders or by proceedings instituted by the State under any statute now in force or hereafter enacted.

“Seventh. The purpose for which the company or association is formed; provided, no trust company shall become a body corporate unless approved by the Banking Board as provided by law for State Banks.”

History. Senate Bill 227, C. 56 S. L. 1925, amending S. L. 1910-11, p. 85, R. L. 308.

116. Liability of Shareholders. The shareholders of trust companies, organized and doing business under this law, shall be additionally liable for an amount equal to the stock owned.

History. S. L. 1910-11, p. 85, Sec. 2; 4191 C. O. S. 1921.

Note: This Section appears to be included in Section 13, S. B. 227; S. L. 1925, but appears not to have been repealed.

117. Same—Acknowledgment and Filing. The articles of agreement shall be signed and acknowledged by the parties thereto and recorded in the office of the recorder of deeds of the county in which the corporation is to be located, and a certified copy of such recorded instrument shall be filed in the office of the secretary of state.

History. R. L. 309; S. L. 1901, p. 88; C. O. S. 1921, Sec. 4192.

Section 2, 118. That Section 4193, Article IV, Chapter 24, Compiled Oklahoma Statutes, 1921, is hereby amended to read as follows:

“Section 4193. The secretary of state shall thereupon give a certificate setting forth that such corporation has been duly organized and the amount of its authorized and subscribed capital, and such certificates shall be taken by all the Courts of this state and other places as evidence of the corporate existence of such corporation. The persons so acknowledging such articles of association and their associates and successors shall, for the period as provided in the articles of association, under the certificate issued by the secretary of state, be a body corporate, and by such name they and their successors shall be entitled to have, possess and enjoy all the rights and privileges conferred by law upon corporations, subject to the provisions of this article.”

History. Senate Bill 227 C. 56, S. L. 1925, amending Sec. 4193, C. O. S. 1921; R. L. Sec. 310; S. L. 1901, p. 89.

119. Purposes for Which Trust Companies May Be Formed. Corporations may be created under this article for any one or more of the following purposes:

First. To receive money in trust or on general deposit with or without interest, as may be agreed upon, and to accept and receive savings accounts and the payment to them or their order of deposits made by minors shall be binding on them; to receive upon deposit for safe keeping personal property of every description; to guarantee special deposits, and to own or control safety vaults and rent boxes therein.

Second. To accept and execute all such trusts and perform such duties of every description as may be committed to them by any person or persons whatsoever, or any corporation, and act as assignee, receiver, trustee and depository, and to accept and execute all such trusts and perform such duties of every description as may be committed or transferred to them by order, judgment or decree of any of the courts of record of this state or of any state or of the United States.

Third. To take, accept and hold by the order, judgment or decree of any court of this state, or of any state or territory of the United States, or by gift, grant, assignment, transfer, devise or bequest of any person or corporation, any real or personal property in trust, and to execute and perform any and all such legal and lawful trusts in regard to the same upon the terms, conditions, limitations and restrictions which may be declared, imposed, established or agreed upon by such order, judgment, decree, gift, grant, assignment, transfer, devise or bequest, and to execute as principal or surety, and to guarantee against loss any principal or surety upon any bond or bonds required by law to be given in any proceeding in law or equity in any of the courts of this State, or other state or of the United States.

Fourth. To act as agent or attorney in fact for any person or corporation in the management and control of real or personal property and the sale or conveyance of the same, and for the investment of money, and to act for and represent corporations, or persons under power and letters of attorney, and as agents for persons and corporations for the purpose of issuing, registering, transferring or countersigning the certificates of stock, bonds or other evidence of debt of any corporation, association, municipality, state or public authority, on such terms as may be agreed upon.

Fifth. To accept from and execute trusts for married women in respect to their separate property, whether real or personal, and act as agent for them in the management of such property, and generally to have and exercise such powers as are usually had and exercised by trust companies.

Sixth. To act as executor under last will or at the instance of any person entitled to any administration or guardianship of any estate, as administrator of the estate of any deceased per-

son, or guardian or curator of any infant, insane person, idiot or habitual drunkard, or trustee for any convict in the penitentiary under the appointment of any court of record having jurisdiction of the person or estate of such deceased person, infant, insane person, idiot, habitual drunkard or convict.

Seventh. To guarantee the fidelity and diligent performance of their duty of persons or corporations holding places of public or private trust; to guarantee or become surety on any bond given by any person or corporation and to reinsure or guarantee any person or corporation against loss or damage by reason of any risk assumed by insuring the fidelity or diligent performance of duty of any such person or corporation, or by guaranteeing or becoming surety on any bond; to guarantee the principal or interest, or both, of any securities of any kind, and to certify and guarantee titles to real estate.

Eighth. To loan money upon real estate and collateral security, and execute and issue its notes and debentures payable at a future date, and to pledge its mortgages on real estate and other securities as security therefor, which notes and debentures may be issued to an amount not exceeding in the aggregate, ten times the amount paid up on the capital stock of the company issuing the same, and shall in no case exceed the amount of the first mortgages pledged to secure their payment.

Ninth. To buy and sell the bonds and warrants of this state, and all other kinds of government, state or municipal, bonds, and all kinds of negotiable and non-negotiable paper, stocks, and other investment securities.

History. Sec. 4194 C. O. S. 1921; R. L. 311; S. L. 7905, p. 150.

120. Section 3. In addition to the powers and authority conferred on the trust companies in this state, there are hereby expressly conferred the following additional powers, to-wit:

“First. To act as fiscal agent of the United States, or any state, municipality, body politic or corporation, and in such capacity to receive and disburse money, credits, securities and effects.

“Second. To discount and negotiate promissory notes, drafts, bills of exchange and other evidence of debt, buy and sell coin and bullion, to accept for payment at a future date, drafts, drawn upon it by its customers, and to issue letters of credit, authorizing the holders thereof to draw drafts upon it or upon its correspondents at sight or on time not exceeding one (1) year; provided, that no trust company shall incur liabilities under this subdivision to an amount equal at any time in the aggregate to more than its paid up and unimpaired capital stock and surplus fund, except with the approval of the Bank Commissioner under such general regulations as to amount of acceptances as the Commissioner may prescribe.

“Third. To act as trustee, and that said trusts created by will or by declaration of trust, may be created for a period not exceeding the life or lives of the beneficiaries therein, and for a period of twenty-one (21) years thereafter, and no provisions of any law heretofore or hereafter adopted, relating to express trusts, shall apply to the corporations incorporated under the provisions of this chapter, unless made specifically applicable thereto.

“Fourth. Any trust company organized under the provisions of this chapter shall have the power to act as guardian for any number of persons, and no law heretofore or hereafter enacted with reference to the number of persons for whom a person or corporation may act as guardian shall apply to trust companies organized under the provisions of this chapter, unless expressly made applicable thereto.

“Fifth. That the provisions of Chapter 16, Session Laws of Oklahoma, 1919, insofar as they conflict with the provisions of this Act, are hereby repealed.

“Sixth. That the provisions of Section 1432, Article XIV, Chapter 5, Compiled Oklahoma Statutes, 1921, insofar as they conflict with the provisions of this Act, are hereby repealed.”

History. Senate Bill 227, C. 56, S. L.: 1925. (Additional powers are conferred in this Section).

Note: The Fifth Sub-division makes Chapter 16 S. L. 1919 inapplicable to trust companies. Chapter 16 deals with common law trusts. The Sixth Sub-division, making Section 1432 inapplicable to trust companies gives trust companies under this law the right to act as guardian of any number of minors. Section 1432 was enacted to prevent guardians of wards from handling the estate of more than five wards.

121. Capital Stock—Directors. One-half of the capital stock actually subscribed must be paid in cash when articles are filed and the remainder within six months thereafter, which fact must be certified without delay by the president and secretary of such company to the secretary of state; and the amount of capital authorized by such articles shall not be more than ten millions of dollars. The property or business of the corporation shall be controlled and managed by directors, not less than five nor more than twenty-five in number, who shall be stockholders of such corporation, to be elected by ballot by the shareholders of such corporation for one year, if the number of directors of such corporation does not exceed five, at such time and place as shall be directed by the by-laws of such corporation, of which time and place at least two weeks' notice shall be published in some newspaper published at least once a week in the city or county in which the corporation is located, and if there be no newspaper published in such county, then in any paper published in this state which circulates in the locality where such corporation is located. Such election shall be made by such of the

shareholders as shall attend in person or by proxy in writing. In case the election shall not be made on the day named, the said corporation shall not thereby be dissolved, but an election may be had at any other time agreeable to the by-laws of said corporation, and the persons so elected shall hold their office until others are elected and qualified. If the number of directors of such corporation named in the articles of association shall exceed five in number, they shall, as soon as may be after their organization, divide themselves by ballot into three classes of equal number as near as may be, designated the first, second and third class, of which the first class shall remain in office one year, the second class two years, and the third class three years; and at each annual election conducted in the manner hereinbefore designated, directors shall be elected for the term of three years to fill the vacancies created by the retiring class. In case of death or resignation of one or more of said directors, the survivors shall fill the vacancy until the next election.

History. Sec. 4196, C. O. S. 1921; R. L. 313; S. L. 1901, p. 92.

122. Investments—Dividends. The directors of corporations created under this article shall have power of investing the moneys placed in their charge in loans secured by real estate or other sufficient collateral security, in public bonds of the United States or of this or any other state, or in the bonds or stocks of any county or school district, or any incorporated city or town in this or any other state. Such corporation shall own only such real estate as may be required for the transaction of its business and such as it may acquire in the enforcement and collection of debts or liabilities due to it. Dividends of the profits of the corporation may be declared by the trustees or directors thereof every six months, or oftener, as the directors may elect; but no such dividends shall be made and paid to the stockholders while such corporation is in a nonsolvent condition, nor shall any dividends be declared which would render such corporation insolvent; and if the directors of such corporation shall knowingly declare and pay any dividends when the corporation is insolvent, or any dividend the payment of which would render it insolvent, they shall be jointly and severally liable for all debts contracted while they shall respectively continue in office; provided, that if any of the directors shall object to the declaring of such dividends, or to the payment of the same, and shall at any time before the time fixed for the payment thereof file a certificate of their objections in writing, with the clerk of the corporation and with the clerk of the district court of the county, they shall be exempt from the said liability.

History. Sec. 4197 C. O. S. 1921; R. L. 314; S. L. 1901, p. 94.

123. Accounts and Reports—Penalty for Failure. The board of directors of the corporation shall keep correct accounts of their

transactions, and have full statement of the condition of the affairs of such corporation made out and exhibited to the stockholders as often as once in each year, at least ten days before the day of election. The board of directors, whenever required to do so by the secretary of state, and within fifteen days after the date of the call made by him, shall also furnish a statement, the form of which shall contain such particulars as the said secretary may prescribe, of the actual condition of such corporation at the close of business on the day designated, and which day shall be prior to such call; said statement to be filed in the office of the said secretary. Said statement shall be certified under oath by the president and secretary (or two principal officers) of such corporation, and verified by the affidavits of three of the directors or stockholders, to be appointed by the board for the purpose of making an examination of the affairs of the corporation, which will qualify them personally to make the sworn statement as provided below. The affidavits appended shall be in the following words:

State of Oklahoma, ss.
 County of.....
 We....., president, and.....
 secretary of the....., do solemnly swear that the
 above statement is true to the best of our knowledge and belief.

Subscribed and sworn to before me this.....day of.....
 Nineteen Hundred and
 (Seal)

We, directors (Stockholders) of the
 do solemnly swear that we have made thorough personal examination of the books, papers, property and affairs of said corporation, and that the above statement is true to the best of our knowledge and belief.

Subscribed and sworn to before me thisday of.....
 Nineteen Hundred and
 (Seal)

History. Sec. 4198 C. O. S. 1921; R. L. 315; S. L. 1901, p. 94.

124. Summary to be Published. A summary of the statement required shall be published by such corporation at least once in one or more daily newspapers published in the city or county where it is located, if a daily newspaper is published therein, or

in a weekly newspaper if no daily is published in such place. Should any president, secretary, other principal officer or director refuse to make the statement so required of him or them, and within the time required, or wilfully and corruptly make a false statement, he or they and each of them shall be deemed guilty of a misdemeanor, and upon conviction thereof, upon information, they shall be punished by a fine for each offense not exceeding five hundred dollars, or by imprisonment not less than one or more than twelve months in the city or county jail, or by both such five and imprisonment.

History. Sec. 4199 C. O. S. 1921; R. L. 316; S. L. 1901, p. 96.

125. Failure to be Prosecuted. It shall be the duty of the secretary of state within sixty days from the date of every call, to report to the prosecuting attorneys of the counties in which such corporations may be located the names of all corporations that have failed to file in his office within the prescribed time, the statement herein required, and it shall be the duty of each prosecuting attorney to whom such report is made immediately to institute proceedings for the enforcement of the penalties in this article provided.

History. Sec. 4200 C. O. S. 1921; R. L. 317; S. L. 1901, p. 96.

126—Section 4. Property or securities held by a trust company in any fiduciary capacity shall be a special deposit in such trust company, and the accounts thereof shall be kept separate from each other, and separate from the company's general business. Such property or securities held in trust shall not be mingled with the investments of the capital stock or other property belonging to such trust company, or be liable for the obligations thereof. For the purpose of this Section, such corporation shall have a trust department, in which all the trust business of said corporation shall be kept separate and distinct from its general business.

History. Senate Bill 227 C. 56, S. L. 1925.

127. Stock Held by Fiduciary or as Security. No person holding stock in the corporation as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder in such corporation, but the person pledging such stock shall be considered as holding the same, and shall be liable as stockholder accordingly; and the estate and funds in the hands of such executors, administrators, guardians or trustees shall be liable in like manner and to the same extent as the testator or intestate, or the ward or person interested in such trust fund, would have been if he had been living and competent to act and hold the same stock is his own name.

History. Sec. 4201 C. O. S. 1921; R. L. 318; S. L. 1901, p. 97.

128. Same—How Voted. Every such executor, administrator, guardian or trustee shall represent the shares of stock in his hands at all meetings of the corporation, and may vote accordingly as a shareholder, and every person who shall pledge his stock as aforesaid, may, nevertheless, represent the same at such meetings, and may vote accordingly as a shareholder.

History. 4202 C. O. S. 1921; R. L. 319; S. L. 1901, p. 97.

129. Books Open For Inspection. The books and all records of the proceedings of such corporation shall be kept open for inspection of all persons interested.

History. Sec. 4203 C. O. S. 1921; R. L. 320; S. L. 1901, p. 97.

130. Change of Capital Stock. Any corporation which may hereafter be formed for any of the purposes contemplated by this article may increase or diminish its capital stock by complying with the provisions of this article, in any amount within the limits of this article, and may also extend its business to any other purposes authorized by this article, subject to the provisions and liabilities thereof.

History. Sec. 4204 C. O. S. 1921; R. L. 321; S. L. 1901, p. 97.

131. Same—Notice of Meeting. Whenever any corporation organized under this article shall desire to call a meeting of its stockholders for the purposes of availing itself of the privileges and provisions of this article, or for increasing or diminishing the amount of its capital stock, it shall be the duty of the directors to publish a notice signed by at least a majority of them, in a newspaper in the county if any shall be published therein, at least sixty days, and to deposit a written or printed copy thereof in the post-office, postage prepaid, addressed to each stockholder at his usual place of residence, at least sixty days previous to the day fixed upon for holding such meeting, specifying the object to the meeting, the time and place when and where such meeting shall be held and the amount to which it shall be extended or changed. An affirmative vote of the persons holding the larger amount in value of all the shares of stock shall be necessary to increase or diminish the amount of its capital stock. The notice provided for in this section shall be published at least once a week, and the first publication must be at least sixty days before the day of such meeting.

History. Sec. 4205 C. O. S. 1921; R. L. 322; S. L. 1901, p. 97.

Note: This Section appears to thoroughly comply with Section 39, Article IX, Constitution.

132. Same—Proceedings. If, at the time and place specified in the notice provided for in the preceding section, stockholders shall appear in person or by proxy, in number representing not less

than a majority of all the shares of stock of the corporation, they shall organize by choosing one of the directors chairman of the meeting, and a suitable person for secretary, and proceed to a vote of those present in person or by proxy; and if, on canvassing the vote it shall appear that a sufficient number of votes has been given in favor of increasing or diminishing the amount of capital, a statement of the proceedings, showing a compliance with the provisions of this article, the amount of capital actually paid in, the whole amount of assets and liabilities of the corporation and the amount to which the capital stock shall be increased or diminished, shall be made out, signed and verified by the affidavit of the chairman and be countersigned by the secretary; and such statement shall be acknowledged by the chairman and a certified copy of such recorded instrument shall be filed in the office of the secretary of state, who shall thereupon issue a certificate that such corporation has complied with the law made and provided for the increase or decrease of capital stock as the case may be, and the amount to which such capital stock is increased or decreased, and such certificate shall be taken in all courts of this state and other places as evidence of such increase or decrease of stock; and thereupon the capital stock of such corporation shall be increased or diminished to the amount specified in such certificate and the corporation shall be entitled to the privileges and provisions and be subject to the liabilities of this article.

History. Sec. 4206 C. O. S. 1921; R. L. 323; S. L. 1901, p. 98.

133. Safety Vault Boxes—Non-Payment of Rent. Any corporation which has been authorized to own or control a safety vault and rent the boxes therein, may, if the amount due for the use of any safe or box in the vault of such corporation shall not have been paid for two years, at the expiration thereof, cause to be sent to the person in whose name such safe or box stands on its books, a notice in writing, in a securely closed postpaid registered letter, directed to such person at his postoffice address, as recorded upon the books of the corporation, notifying such person that if the amount then due for the use of such safe or box is not paid within sixty days from the date of such notice, the corporation will then cause such safe or box to be opened in the presence of its president, vice president, secretary or treasurer, and of a notary public not an officer or in the employ of the corporation, and the contents thereof, if any, to be sealed up by such notary public in a package, upon which such notary shall distinctly mark the name and address of the person in whose name such safe or box stands upon the books of the corporation, and the estimated value thereof; and the package so sealed and addressed when marked for identification by such notary public will be placed by such notary public in one of the general safes or boxes of the corporation and retained by the corporation, subject to the payment of all rent

that may be unpaid and all expenses incurred in opening the safe or box, and also of a reasonable compensation for the safe keeping of the contents after their removal from the safe or box.

History. Sec. 4195 C. O. S. 1921; R. L. 312; S. L. 1901, p. 91.

134. Trust Company As Fiduciary—Deposit Required. Any company organized under this article shall be permitted to qualify as guardian, curator, executor, administrator, assignee, receiver and trustee, either by deed, will or judicial appointment, without giving bond as such, or become sole guarantor or surety in or upon any bond required to be given under the laws of this state and to insure the fidelity of persons holding places of public or private trust; provided, that such company shall first deliver into the custody of the state treasurer a deposit of fifty thousand dollars, consisting of cash or government, county or municipal bonds, or bonds or warrants of the State of Oklahoma, or notes or debentures secured by first mortgage or deed of trust on real estate situate in this state, worth at least double the amount loaned thereon, or railroad, electric railroad or electric light bonds secured by first mortgage or deed of trust upon all property and franchises of such railroad, electric railroad or electric light company, and whose current net earnings must be at least double the current interest on all outstanding bonds secured by such first mortgage or deed of trust, or such other first-class securities as may be approved therefor by the bank commissioner; and the said bonds and securities in no case shall be accepted above their par value nor below their market value.

History. Sec. 4207 C. O. S. 1921; R. L. 324; S. L. 1905, p. 151.

135. Bank Commissioner to Examine Securities. Before the said securities shall be accepted the bank commissioner shall certify that he has examined the same and that they are worth a sum to be by him scheduled in such certificate, and the treasurer shall thereupon accept the same at the appraisement placed thereon by said commissioner; and whenever said bank commissioner shall examine any such trust company it shall be his duty to report especially to the state treasurer on the value of the securities so deposited with said treasurer, and if it is found at any time that said securities have become depreciated or impaired, he shall so notify said treasurer, who shall require additional deposits to make good any impairment or depreciation; and if said company shall fail within twenty days to make good any such depreciation, it shall not be permitted to carry on any of the business for which said deposits are required for indemnity, while so in default.

History. Sec. 4208 C. O. S. 1921; R. L. 325; S. L. 1905, p. 152.

136. Securities May Be Exchanged. Upon application by such company and upon the approval of the said bank commissioner,

securities so deposited may be exchanged from time to time for others of equal value, and the said corporation shall in all cases pay the expenses of the bank commissioner in making all examinations and appraisals upon any original or supplemental deposit of such securities.

History. Sec. 4209 C. O. S. 1921; R. L. 326; S. L. 1905, p. 151.

137. Amount of Deposit Required. The amount of securities so deposited shall in no case be less than one-half the annual premiums and compensation earned by such company during the preceding year as surety, guarantor, administrator, executor, curator and receiver and trustee in this state, and, whenever one-half the said premium and compensation shall exceed said sum of fifty thousand dollars for any one year, additional deposits shall be required in the same manner as hereinbefore set out, to keep the same equal in the aggregate amount to one-half such premiums and compensation earned during the preceding year and such companies shall on or before the tenth day of January, in each year, file under the oath of one of its principal officers, a statement showing the amount of such receipts for the preceding year, and shall accompany such statement with any additional deposits required as herein provided.

History. Sec. 4210 C. O. S. 1921; R. L. 327; S. L. 1905, p. 152.

138. Treasurer to Issue Certificate. Upon the making of a deposit with the state treasurer as herein provided, the treasurer shall issue a certificate to the effect that such company has fully complied with the law and is entitled to act in the various capacities herein specified, which certificate shall be sufficient proof that such company has complied with the terms of this article.

History. Sec. 4211 C. O. S. 1921; R. L. 328; S. L. 1905, p. 153.

139. Fund Subject to Company's Liabilities. The fund so deposited with the treasurer shall be primarily liable for the obligations of such company as surety, guarantor, curator, executor, administrator, assignee, receiver and trustee as aforesaid, depository of money in court, or other fiduciary capacity, until all liability incurred by said company shall have been terminated, and in the event of any judgment against such company upon any such obligations becoming final, execution may be issued and served upon the state treasurer, who shall deliver to the officer holding such execution sufficient of such securities to satisfy same, to be sold and disposed of in the manner provided for by law for the sale of personal property upon execution, unless at the time of service of such order the bank commissioner shall advise the treasurer of the insolvency of such company; in which case the treasurer, under the direction of the bank commissioner, shall sell and deposit

all of such securities or deliver the same to any receiver of such corporation, to be held as a fund for the discharge of the specific obligations pro rata, for which the same were deposited.

History. Sec. 4212 C. O. S. 1921; R. L. 329; S. L. 1905, p. 153.

140. Additional Deposit May Be Required, When. The treasurer shall at no time retain any security with interest or principal more than ninety days in default, but shall require the substitution of others in their place; and at any time when any judgment shall have been recovered against any such company upon any of the obligations for which such fund is security, whether the same is final or appellate proceedings to be taken therefrom, it shall be discretionary with the bank commissioner to require an additional deposit equal to the amount of such judgment or judgments and costs.

History. C. O. S. 1921, Sec. 4213; R. L. 330; S. L. 1905, p. 154.

141. Liability of Stockholder—Impairment of Capital.

Section 13. That Section 4214, Article IV, Chapter 24, Compiled Oklahoma Statutes, 1921, is hereby amended to read as follows:

“Section 4214. Each stockholder of a company organized under this Article shall be additionally liable for the amount of stock owned by him. Whenever it shall appear to the Bank Commissioner that the capital of any such company has become impaired, the Bank Commissioner shall notify such company to make such impairment good within sixty (60) days, and it shall be the duty of the officers and directors of such company receiving such notice from the Bank Commissioner to immediately call a special meeting of its stockholders for the purpose of levying an assessment upon its stockholders sufficient to cover the impairment of its capital stock; provided, that such company, if not insolvent, may reduce its capital stock to the extent of such impairment, if such reduction will not place its capital below the amount required by this Chapter; provided, further, that the company shall have a prior lien upon the stock of every individual stockholder to the extent of such assessment and, upon the failure of any such stockholder to pay the assessment authorized by this Section within the time fixed by the Bank Commissioner for making good said impairment, said lien may be foreclosed and the stock of such delinquent stockholder sold by giving notice of the time and place of said sale and of the stock to be sold by advertisement for fifteen (15) days in some newspaper of general circulation published in the county where such trust company is located.”

History. Senate Bill 227 C. 56, 1925; amending Section 4214 C. O. S. 1921; R. L. 331; S. L. 1901, p. 100.

142. Insolvency and Liquidation.

Section 12. That Section 4215, Article IV, Chapter 24, Compiled Oklahoma Statutes, 1921, is hereby amended to read as follows:

“Section 4215. Companies organized under this Article shall be subject to inspection by the Bank Commissioner and if, upon examination, such company is found to be insolvent, it shall be the duty of such Bank Commissioner immediately to take charge of such company and all property and effects thereof. Upon so taking charge, the Commissioner shall as soon as possible ascertain by thorough examination into its affairs, its actual financial condition, and whenever he shall become satisfied that such company cannot resume business or liquidate its indebtedness to the satisfaction of all its creditors, he shall proceed to liquidate said trust company and wind up its affairs in the same manner as provided by law for the liquidation of State Banks; provided, that the interest of all persons in the assets thereof shall be as herein provided with respect to the trust department and the Commercial Banking and Savings Department thereof. The Bank Commissioner shall receive the same fees for his services as provided by law, to be paid to him for like services for the examination of banks in this State.”

History. Senate Bill 227, C. 56, 1925, amending Sec. 4215 C. O. S. 1921; R. L. 332; S. L. 1901, p. 101.

143. May Establish Commercial Bank.

Section 5. That Section 4216, Article IV, Chapter 24, Compiled Oklahoma Statutes, 1921, is hereby amended to read as follows:

“Section 4216. All trust companies incorporated under the laws of this State are hereby authorized to establish a commercial banking and savings department, in which they shall be permitted to receive money on deposit, with or without interest, including savings accounts, trust funds and sinking funds; provided, that before a trust company is authorized to accept deposits, as above provided, the board of directors of such trust company shall, by resolution, as a primary protection to the depositors in said commercial banking and savings department, set aside a portion of the capital stock of said trust company, the amount of which in no case shall be less than the amount of capital stock required to organize a State bank in the city or town in which said trust company is located. A certified copy of said resolutions shall be filed with the State Bank Commissioner and a certificate of the Board of Directors of said trust company shall be filed with said Bank Commissioner, certifying that the amount of capital stock necessary to create a commercial banking and savings department has

been set aside, according to the laws of the State of Oklahoma, and thereupon the State Banking Board may, in its discretion, cause to be issued a certificate to said trust company, authorizing it to establish a commercial banking and savings department in said trust company."

History. Senate Bill 227, C. 56, L. 1925; amending Section 4216, C. O. S. 1921; S. L. 1919, p. 242.

144. Commercial Bank Under Supervision of Commissioner.

Section 6. That Section 4217, Article IV, Chapter 24, Compiled Oklahoma Statutes, 1921, is hereby amended to read as follows:

"Section 4217. That the commercial banking and savings department of a trust company established under the provisions of this Act shall be subject to to all laws of the State of Oklahoma relating to state banks and shall be under the supervision of the state banking board and the bank commissioner of the State of Oklahoma, and all loans or investments made of the funds in the commercial banking and savings department, except the savings and time deposits, of said trust company shall be made in conformity with the laws of the State of Oklahoma relating to state banks; provided, that all loans or investments made of the funds of the savings and time deposits in said department shall be made in accordance with the laws governing the investments of trust funds by trust companies in this state, as provided in Section 4197, of Article IV, Chapter 24, Compiled Oklahoma Statutes, 1921."

History. Senate Bill 227, C. 56, L. 1925; amending Section 4217 C. O. S. 1921; S. L. 1919, p. 242.

145. Capital Set Aside for Commercial Bank.

Section 7. That Section 4218, Article IV, Chapter 24, Compiled Oklahoma Statutes, 1921, is hereby amended to read as follows:

"Section 4218. The capital stock set aside for the commercial banking and savings department and all deposits and all investments and loans and securities held in the commercial banking and savinnngs department shall be appropriated solely to the security and payment of the deposits in the commerical banking and savings department, and shall not be mingled with the investment of the remaining capital stock or other money or property belonging to or controlled by such trust company, or be liable for the debts or obligations thereof until after the deposits in said commercial banking and savings department have been paid in full. The accounts and transactions of said commercial banking and savings department shall be kept separate and distinct from the general business of the corporation."

History. Senate Bill 227, C. 56, L. 1925: amending Section 4218, C. O. S. 1921; L. S. L. 1919, p. 242.

146. Capital Liable for Payment of Deposits.

Section 8. That Section 4219, Article IV, Chapter 24, Compiled Oklahoma Statutes, 1921, is hereby amended to read as follows:

“Section 4219. The capital stock of said trust company appropriated to the commercial banking and savings department, together with the stockholders’ liability thereunder, shall be held as security for the payment of all deposits made in the commercial banking and savings department and, in addition thereto, the persons making such deposits, or entitled to said deposits, shall have an equal claim with the other creditors of such trust company upon the remaining capital and other property of the corporation, together with the stockholders’ liability thereunder.”

History. Senate Bill 227, C. 56, S. L. 1925; amending Section 4219, Compiled Oklahoma Statutes, 1921; S. L. 1919 p. 242.

147. Withdrawals of Deposits. Such trust company may at any time require a depositor in said savings department to give a notice not exceeding ninety (90) days of his intention to withdraw the whole or any part of his deposits.

History. Section 4220, C. O. S. 1921; S. L. 1919, p. 242.

147-a. Supervision and Control. The savings department of a trust company created under the provisions of this act shall be under the supervision and control of the state bank commissioner of the State of Oklahoma, and be subject to all rules and regulations of the state banking board and state bank commissioner of the State of Oklahoma; provided, that the depositors’ guaranty law of the State of Oklahoma shall apply to the savings department of a trust company, in the same manner and to the same extent that said law now applies to state banks.

History. Sec. 4223, C. O. S. 1921, R. L. 1919, p. 242, Sec. 8.

148. Accounts of Minors.

Section 9. That Section 4221, Article IV, Chapter 24, Compiled Oklahoma Statutes, 1921, is hereby amended to read as follows:

“Section 4221. A trust company is authorize to accept and receive commercial and savings deposits from minors or other incompetent persons, and such trust company is authorized to pay to minors or incompetents, any funds deposits by said minors or in-

competents, in the commercial banking or savings department of said trust company, and the payment of said deposits and interest thereon to said minors or incompetents shall be binding on them."

History. Senate Bill 227, C. 56 L. 1925; amending C. O. S. 1921, Sec. 4221; S. L. 1919, p. 242.

149. Section 4222. Investment of Trust Funds. All funds deposited in the savings department of a trust company, by said trust company in its capacity as executor, administrator, guardian or trustee, which under the law should be invested in interest-bearing securities for the benefit of the cestue que trust, shall be invested by said trust company according to law for the benefit of the cestue que trust within ninety (90) days from the date of the deposit, or said trust company shall pay to the cestue que trust interest on all uninvested funds after ninety (90) days from the date of said deposit at the rate of eight per cent (8%) per annum until the same are invested according to law.

History. Sec. 4222 C. O. S. 1921; S. L. 1919, p. 242.

151. Taxation of Capital Stock of Commercial Bank.

Section 10. That the capital stock set aside for a commercial banking and savings department of a trust company shall be assessed and taxed upon the actual value of the shares of stock of such capital so set aside for the benefit of the commercial banking and savings department as the shares of stock in State banks are now assessed and taxed in the county, city, town, district or village where such trust company is located. All property held by a trust company in a fiduciary capacity shall be returned and rendered for taxation at the same time and in the same manner as now provided by law for other property of like kind.

History. Senate Bill 227, C. 56, L. 1925. (taxation of banks as provided for in Section 9607, C. O. S. 1921).

152. Fees Charged Not Considered Interest.

Section 11. The charges or service fees made by the trust department of any trust company organized and existing under the laws of this state, for any services performed or under any powers granted to such company, under the laws of this State, shall not be considered any part of the interest charged on any loan and shall not be subject to the interest laws of the State.

History. Senate Bill 227, 1925.

153. Unfair Practices Prohibited. That the use of the word trust or trust company by any person, firm, corporation, or company that does not possess the paid-in capital required by law to do a trust company business under the laws of Oklahoma shall be unlawful and punishable as a felony.

History. Sec. 4224, C. O. S. 1921; S. L. 1919, p. 242.

154. Section 14. All Acts and parts of Acts in conflict herewith are hereby expressly repealed.

History. Senate Bill 227, C. 56, L. 1925.

Note: This Section is included for the reason that an examination of this compilation shows some of the trust laws heretofore enacted have been amended either directly or indirectly and, since this Section repeals conflicting Acts, it is included as a matter of information.

LOANS AND USURY

155. Legal and Contract Rates of Interest. The legal rate of interest shall not exceed six per cent, in the absence of any contract as to the rate of interest, and by contract parties may agree upon any rate not to exceed ten per cent per annum. Said rates of six and ten per cent shall be respectively the legal rate and the maximum contract rates of interest.

History. R. L. 1004; S. L. 1910, p. 253, Sec. 5097, C. O. S. 1921.
Usury defined:

Clement Mtg Co. vs. Johnston 83 Okla. 153, 201 Pac. 2407.

Bank vs. Thompson 57 Okla. 521, 164 Pac. 977.

Dies vs. Bank 100 Okla. 205, 229 Pac. 474.

Munn vs. Securities Co. 100 Okla. 105, 228 Pac. 150.

Finerty Inv. Co. vs. Athey 89 Okla. 284, 215 Pac. 613.

156. Usury—Penalty—Forfeiture. The taking, receiving, reserving or charging a greater rate of interest than is provided by the preceding section shall be deemed a forfeiture of twice the amount of interest which the note, bill or other evidence of debt carries with it, or which has been agreed to be paid thereon. In case a greater rate of interest has been paid, the person by whom it has been paid, or his legal representatives, may recover from the person, firm or corporation, taking or receiving the same, in an action in the nature of an action of debt, twice the amount of the entire interest paid; provided, that such action shall be brought within two years after the maturity of such usurious contract; provided, further, that when any suit is brought upon any note, bill or other evidence of indebtedness or to foreclose any mortgage or lien given to secure such indebtedness when a greater rate of interest has been collected, reserved, charged or received than is provided for in this act, the defendant, or his legal representative, may plead as a set-off or counter-claim in said action the amount of the entire interest collected, reserved, charged or received in said transaction or in all such transactions between the same parties.

History. S. L. 1916, p. 24, Amenling R. L. 1005: Sec. 5098 C. O. S. 1921.
 Dies vs. Bank 100 Okla. 205, 229 Pac. 474.
 Munn vs. Securities Co. 100 Okla. 105, 228 Pac. 150.
 Clement Mtg. Co. vs. Johnston 83 Okla. 153, 201 Pac. 247.
 Bank vs. Thompson 57 Okla. 521, 164 Pac. 977.
 Finerty Inv. Co. vs. Athey 89 Okla. 284, 215 Pac. 613.
 Statute applies only to loan of money.
 National Novelty Co. vs. Muncy 93 Okla. 219 Pac. 670.

157. Liquidation of Usurious Contract—Tender—Procedure.

Any contract for the loan of money, where the rate of interest taken, received, reserved or charged is greater than the rate as declared in Section 1004 of the Revised Laws of Oklahoma, 1910, may be liquidated in the following manner: On the date such contract falls due, or at any time before suit for the collection thereof is instituted, the payor, his agent, attorney, or legal representative may tender to the holder thereof the exact amount of money received from the lender, less the amount of the entire interest charged, received, reserved, or collected thereon, said tender to be in writing, and to such party only as service may be had as in case of actions at law, and the payee of said contract is hereby given twenty-four hours thereafter to answer such tender, and such answer shall be in writing, and the acceptance or final rejection thereof shall constitute and be a full and complete satisfaction of such indebtedness. If no such tender as heretofore provided has been made, and suit is instituted in a court of competent jurisdiction for the collection thereof, the payor, his agent, attorney, or legal representative may, at or before the time he is required to plead, deposit in the court the exact sum of money received on said contract, less the exact amount of the entire interest taken, received, reserved or charged, and the cost incurred, and if the same be not accepted, the court or jury shall make a finding thereon and judgment against plaintiff shall be rendered on said finding holding such contract and debt satisfied by reason of such tender, if such is found to have been made, and for cost, and on such finding the said deposit shall be returned to said defendant. Provided, this section shall not be construed to prevent the debtor from bringing his action on cross-petition, or in an original suit to recover twice the amount of interest charged or paid in said contract sued upon. Provided, further, the provisions of this act shall not operate to repeal or modify any of the provisions of the negotiable instrument act.

History. S. L. 1916, p. 25, Sec. 2: Sec. 5099 C. O. S. 1921.
 This amendment not unconstitutional.
 Dies vs. Bank 100 Okla. 205, 229 Pac. 475.
 Munn vs. Securities Co. 100 Okla. 105, 228 Pac. 150.

158. Indorser and Indorsee—Liability—Transfer of Causes.

Any person, firm or corporation violating the provisions of this act and the laws of this State relating to the loaning of money by taking, reserving, charging or receiving any usurious interest

on any note, bill or other evidence of debt, and who shall transfer the same to a bona fide purchaser before due shall be liable to the maker of said note, bill or other evidence of debt for double all such interest taken, reserved, charged or received and it shall be competent to join in the same action, causes of action for reserving and charging usurious interest with causes of action for taking and receiving usurious interest, and any number of such causes of such action may be joined in the same action, whether growing out of the same transaction or different transactions, wherein such usurious interest is taken, reserved, charged or received; provided, that the purchaser of any note, or evidence of debt, with notice or knowledge that same was executed in violation of interest laws of the State, shall not be deemed an innocent purchaser and such contract shall be held subject to all the defenses and penalties provided in this act. Provided, further, that causes of action for the recovery of penalties created in this act shall not be assignable.

History. S. L. 1916, p. 26, Sec. 3; Sec. 5100 C. O. S. 1921.

Forfeiture of double interest for usurious loan of money.

Dies vs. Bank 100 Okla. 205, 229 Pac. 475.

Munn vs. Securities Co. 100 Okla. 105, 228 Pac. 150.

159. Jurisdiction of Court Denied in Certain Cases. No suit upon any contract entered into after the passage and approval of this Act, of \$300.00 or less, or an action in replevin or to foreclose any mortgage or lien given as security therefor, shall be maintained in courts of this State, and no petition of bill of particulars shall be filed or any process issued where the amount of such sum is \$300.00 or less, unless at the time of filing such suit, there shall be filed with such bill of particulars or petition, an affidavit setting forth such suit brought upon any note, bill or other evidence of indebtedness of this State, and that a greater rate of interest than ten per cent has not been charged, reserved or collected on such contract or contracts sued upon; Provided, that if upon the trial of any such suit brought upon any note, bill or other evidence of indebtedness of \$300.00 or less, or in replevin or for the foreclosure of any lien given to secure the same, it shall be shown by the evidence that the contract sued upon is usurious and made in violation of the interest laws of this State, said suit shall be dismissed at the cost of the plaintiff.

History. S. L. 1916, p. 27, Sec. 5101 C. O. S. 1921.

Quoere: Does this section violate the "Equal protection of the law" provision of constitution?

Dies vs. Bank 100 Okla. 205, 229 Pac. 475.

Does not apply to contract for sale of merchandise.

National Nov. Co. vs. Muncy 93 Okla. 5, 219 Pac. 670.

Alder vs. Chapman 91 Okla. 196, 219 Pac. 90.

Clapp vs. Smith 91 Okla. 84, 216 Pac. 121.

Where note is one of series and total amount exceeds \$300, section does not apply.

Rennie vs. Mtg. Co. 99 Okla. 217, 226 Pac. 314.

160. Banks to Report—Withdrawal of Charter—Procedure.

It shall be the duty of the officers of all state banks, organized and doing business under and by virtue of the laws of the State, to make a sworn quarterly report to the Bank Commissioner, setting forth the rate of interest charged, retained, reserved or collected upon the loans made in excess of the legal or contract rate of interest during the quarter for which said report is made, and such other detailed information as the Bank Commissioner may require concerning rates of interest charged, and all such reports as show the rates of interest exceeding ten per cent per annum have been charged shall be published in the annual report of the Bank Commissioner. Provided, that when the report of any bank shall disclose that such bank is wilfully loaning money in violation of the interest laws of the State it shall be his duty to immediately report such violation to the Governor, who may direct the Bank Commissioner to bring suit, through the Attorney General, in a court of competent jurisdiction in the county where the bank is located, to cancel the charter of such bank, and the judgment of the court on the trial of said issue shall find the defendant bank guilty or not guilty, and if the judgment is guilty it shall further provide for the cancellation of the charter of said bank and the liquidation of the assets of said bank as the law now provides in cases of insolvent banks, from which judgment either party shall have the right of appeal to the Supreme Court, as in civil cases. Upon such appeal being filed, the Supreme Court shall hear and determine same as an advanced case.

History. S. L. 1916, p. 27, Sec. 5; Sec. 5102 C. O. S. 1921.

Alder vs. Chapman 91 Okla. 196, 219 Pac. 91.

161. Attorney's Fee. In all cases where an action is brought by any person to recover the penalty prescribed by the preceding section the prevailing party in such action shall be entitled to recover, as part of the costs, a judgment against the other party to such action for a reasonable attorney's fee in a sum not less than ten dollars, to be fixed by the court, for the use and benefit of the attorney of record of the prevailing party, together with all costs.

History. R. L. 1006, S. L. 1910, p. 253; Sec. 5103 C. O. S. 1921.

Prevailing party is entitled to attorney fee.

Loan Co. vs. Development Co. 81 Okla. 172, 197 Pac. 484.

Ruby vs. Warrior 71 Okla. 83, 175 Pac. 359.

Bank of Buffalo vs. Verm. 68 Okla. 43, 171 Pac. 450.

162. Interest May Be Deducted From Loan. The interest which would become due at the end of a term for which a loan is made, not exceeding one year's interest in all, may be deducted from the loan in advance if the parties thus agree.

History. R. L. 1007; Dak. 3722; 1890, Sec. 915; C. O. S. 1921, Sec. 5104.

If contract not usurious at inception subsequent plan of liquidating does not make it usurious.

Clement Mtg. vs. Johnston, 83 Okla. 153, 201 Pac. 249.

163. Interest on Judgments. All judgments of courts of record and justice of the peace shall bear interest from the day on which they are rendered at the rate of six per cent per annum; Provided, that when a rate of interest is specified in any contract, that rate shall continue until payment is made, and any judgment rendered on any such contract shall bear the same rate of interest mentioned in the contract, which rate shall be specified in the judgment; but in no case shall such rate exceed the legal contract rate at the date of such obligation.

History. R. L. 1008; S. L. 1895, p. 93; 5105 C. O. S. 1921.

Judgments bear 6 per cent. interest unless contract provides greater.

Daniels vs. Bunck 98 Okla. 47, 223 Pac. 841.

Fleisch vs. Richie 91 Okla. 95, 216 Pac. 644.

164. Interest on Contracts After Breach. Any legal rate of interest, stipulated by a contract, remains chargeable after a breach thereof, as before, until the contract is superseded by a verdict or other new obligations.

History. R. L. 1009; Dak. 3725; S. L. 1890, Sec. 918; C. O. S. 1921, Sec. 5106.

Daniels vs. Bunch 98 Okla. 47, 223 Pac. 841.

165. Banks—Taxation of—Shares of Stock—Deductions. Every bank located within this State, whether such bank has been organized under the banking laws of this State, or any other territory or state, or of the United States, shall be assessed and taxed upon the actual value of shares of stock therein, in the county, town, district, village, or city, where such bank or banking association is located whether such stockholders reside in such place or not, less such portion thereof as is invested in any bonds issued against the public building fund, issued under the authority of chapter 89, of the session laws of Oklahoma, 1911, being senate bill No. 198, of said session, and less such portion thereof as is invested in real estate situated in this State, which may be separately assessed and taxed. Such shares shall be listed and assessed with regard to the ownership and value thereof as they existed, on the first day of January annually, subject, however, to the restriction that taxation

of such shares shall not be at a greater rate than is assessed upon any other moneyed capital in the hands of the individual citizens of the State, in the county, town, district, village or city where such bank is located.

The shares of capital stock of national banks, not located in the State, held in this State, shall not be required to be listed under the provisions of this act. In each such bank there shall be kept at all times a full and correct list of the names and residences of its stockholders, and of the number of shares held by each; which list shall be subject to the inspection of the officers authorized to assess property for taxation; and it shall be the duty of the assessor to ascertain a correct list of the names and residences of all stockholders in any such bank, with the number and assessed value of all such shares held by each stockholder and enter the total value of the same on his tax list, in the corporate name of such bank or corporation and file the list of stockholders with the county clerk.

The officer or officers authorized to receive taxes may, all or either of them, have an action to collect the tax assessed on any share or shares of bank stock from any property of said bank or corporation or from the avails of the sale of such share or shares, and the tax against such share or shares shall be and remain a lien thereon from January first in each year until the payment of said tax. For the purpose of collecting such taxes it shall be the duty of every such bank, or the managing officer or officers thereof, to pay the tax assessed against said bank, or the stock thereof, and to retain so much of every dividend or dividends belonging to such stockholders as shall be necessary to pay any taxes levied upon their shares of stock respectively until it shall be made to appear to such bank or its officers that such taxes have been paid; and they may sell any of said stock to reimburse said bank for any taxes so paid on same; and any officer of said bank who shall pay over or authorize paying over of any such dividend or dividends or any portion thereof, contrary to the provisions of this section, shall hereby become liable for such tax; and if the said tax shall not be paid, the collector of taxes where said bank is located shall proceed to collect the same in the manner in which taxes on personal property are required to be collected by this act, or by suit in the district court. Taxes due upon any property in the hands of any receiver appointed by any court in this State, or in the hands of any assignee or trustee, shall be a prior first lien upon all of said property and shall be paid by such receiver, assignee or trustee before any other claim except his personal costs.

History. S. L. 1921, p. 288, Sec. 1, amending S. L. 1919; C. O. S. 1921, Sec. 9607.

Taxes upon shares of stock of bank are not lien upon assets in hands of Bank Commissioner.

Walcott vs. McCarroll 88 Okla. 279, 213 Pac. 296.

Gourd vs. Bank 90 Okla. 298, 217 Pac. 358.

Real property based on assessed value may be deducted from assessable value of shares of stock, but it must be assessed separately—Burden on bank to right of deduction.

In re National Bank 100 Okla. 155, 228 Pac. 953.

In re First National Bank 93 Okla. 233, 220 Pac. 913.

164. Notes—Bonds—Choses in Action Taxed. Any person owning any bond, note of any duration of over eight months or other choses in action evidenced by writing, located in the State of Oklahoma, may take same to the office of the county treasurer of the county in which the owner of said bond, note of a duration exceeding eight months, or other choses in action, resides or he may send a description of the same to said county treasurer, and pay to said county treasurer a tax of two per centum of the face amount thereof for five years, or at the option of such person, for a greater or less number of years at the same rate, and the said county treasurer shall thereupon make an endorsement upon said bond, note of a duration of over eight months, or other choses in action, certifying that same is exempt from all taxation for State, county, city, town, township, school district and other municipal purposes for a period of five years, or for such longer or shorter period for which a proportionate tax has been paid, which endorsement or receipt shall be duly dated and signed in the name of the county treasurer of the county in which said property is located and where said tax is paid, and with the seal of the treasurer of said county affixed. Provided, that provisions of this act shall not apply to any property which under the existing laws is not subject to taxation, and provided further, all property taxable under the provisions of this act and owned by a non-resident of the State of Oklahoma, shall be listed for taxes in the county in which such evidence of indebtedness is located; and, provided, further, nothing in this act shall cause any part of the capital stock of a corporation to be exempt from taxation; and, provided, further, the bonds, notes and other choses in action, evidenced in writing held by banking corporations which pay taxes on its capital stock, surplus and undivided profits, shall not be subject to the provisions of this act.

History. S. L. 1917, p. 484, Sec. 1; Sec. 9608 C. O. S. 1921.

Not unconstitutional.

Harrell vs. Suter 100 Okla. 56, 227 Pac. 403.

Not applicable if note less than eight months.

Kelley vs. Hamilton 78 Okla. 179, 189 Pac. 535.

Tippet vs. Fox 95 Okla. 205, 218 Pac. 1057.

Does not apply to choses in action of non residents not in state.

Pappas vs. Company 92 Okla. 25, 217 Pac. 474.

165. Property Subject to Tax Listed. All property taxable under provisions of this act, shall be listed for taxation as provided for in Section 1, hereof, within sixty (60) days after this act becomes effective; provided, such property is now in existence and all other property subject to taxation under the provisions

of this act shall be listed for taxation as provided for herein, within sixty days from the date of execution of the evidence of such indebtedness.

History. S. L. 1917; p. 485, Sec. 3; Sec. 9610, C. O. S. 1921.

166. Collected—For What Purposes. The tax provided for in this act is hereby levied and collected for the following specific purposes; to-wit:

First. For the contingent fund of the county in which such tax is paid, one-half of such amount collected.

Second. For aid of the common schools of the county in which said tax is paid, one-half of such amount collected; Provided, that it shall be the duty of the county treasurer of each county in apportioning the one-half apportioned for the use of the common schools to apportion same upon a per capita basis, based upon the number of children of scholastic age in each and every school district in said county.

History. S. L. 1917, p. 485, Sec. 4; Sec. 9611 C. O. S. 1921.

Tax must be paid before note can be introduced in evidence.

Harrell vs. Suter, 100 Okla. 56, 277 Pac. 404.

167. Penalty for Violation. In case any person, firm or corporation holding or owning any property subject to taxation under provisions of this act, fails to list such property and pay the taxes provided for in Section 1, of this act, within the time specified, such person, firm or corporation may pay such taxes at any time thereafter, together with a penalty thereon, in the sum of 5% of the face value of such evidence of indebtedness and such penalty shall be in addition to the tax provided for in this act.

History. S. L. 1917, p. 485, Sec. 5; Sec. 9612 C. O. S. 1921.

168. Not Admitted in Evidence Unless Listed. No bond or note of over eight months duration or other choses in action, which has not been registered with the county treasurer of the county in which it is located and the tax paid in accordance with this act, shall be admitted in evidence in any of the courts of the State of Oklahoma; provided, that this act shall not apply to notes secured by real estate mortgages which have been or hereafter may be registered under the provisions of Chapter 246, Session Laws, 1913, as amended by Chapter 105, Session Laws, 1915 (9585-9596).

History. S. L. 1917, p. 486, Sec. 6; Sec. 9613 C. O. S. 1921.

Harrell vs. Suter 100 Okla. 56, 227 Pac. 404.

TAX ON MONEY AND CREDITS

Tax—Ad Valorem Tax.

Section 1. That hereafter money shall not be subject to ad valorem or other tax as personal property nor to any form of tax other than as herein provided.

Same—Levy.

Section 2. There is hereby levied in lieu of existing law a tax at the rate of one-tenth of one per cent on all monies, certificates of deposit, or other evidence thereof, of any individual, co-partnership, or corporation, building and loan association, joint stock association or trust association in this state on the first day of January of each calendar year whether such money is in the personal custody of such owner or on deposit in any bank, trust company, building and loan association or other depository of money; provided, however, the provisions of this Act shall not apply to moneyed capital in this state coming in competition with state and national banks as defined in the Act of Congress of March 4th, 1924, nor to certificates of stock or evidence of deposit issued by building and loan associations.

Same—Property Scheduled for Taxation.

Section 3. Each person, corporation, co-partnership, joint stock association, trust association, building and loan association, or any receiver or trustee, in this state, shall schedule for taxation all money, certificates of deposit or other evidence thereof, belonging to such person, corporation, co-partnership, joint stock association, trust association, building and loan association or in the custody or possession of such receiver or trustee on hand and in possession on the first day of January of each calendar year, as is now provided by law for listing personal property for taxation. Property coming under the tax classification provided in this Act shall be assessed separately from all other property and shall not be computed in the total assessed valuation of any county by any excise board, or by the State Board of Equalization for ad valorem tax levy purposes, except to the extent of the provisions of this Act, nor in the computation of bond levy limitations, either by the state or any subdivision thereof. It shall be the duty of the State Examiner and Inspector to supply county assessors with separate and proper blanks for recording tax returns under this Act.

History. H. B. 88, Chapter 120, S. L. 1925.

170. Cheats, Frauds and Bogus Checks.

Section 1. Section 2146, of Article 53, of Chapter 6, of the Compiled Statutes of Oklahoma, 1921, is hereby amended to read as follows:

“Section 2146. Every person who, with intent to cheat and defraud, shall obtain or attempt to obtain from any person, firm or corporation, any money, property, or valuable thing, of the value Twenty (\$20.00) Dollars, or less, by means or by use of any trick or deception, or false or fraudulent representation, or statement or pretense, or by any other means or instrument or device commonly called the “confidence game”, or by means or use of any false

or bogus checks, or by any other written or printed or engraved instrument or spurious coin, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one hundred (\$100.00) Dollars, or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment. If the value of the money, property or valuable thing referred to in the preceding paragraph, be more than Twenty (\$20.00) Dollars, any person convicted hereunder shall be deemed guilty of a felony and shall be punished by imprisonment in the State Penitentiary, for a term not exceeding seven (7) years, or by a fine not to exceed Five Hundred (\$500.00) Dollars, or by both such fine and imprisonment. The term "false or bogus check" shall include checks or orders given for money or property which are not honored on account of insufficient funds of the maker to pay same, as against the maker or drawer thereof, the making, drawing, uttering or delivering of a check, draft or order, payment of which is refused by the drawee, shall be prima facie evidence of intent to defraud and the knowledge of insufficient funds in, or credit with, such bank or other depository; provided, such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with the protest fees, within five days from the date the same is presented for payment; and, provided, further, that said check or order is presented for payment within thirty days after same is delivered and accepted.

The word "credit" as used herein, shall be construed to mean an arrangement or understanding with the bank or depository, for the payment of such check, draft or order."

History. C. 33, S. L. 1923.

LAWS GOVERNING DOMESTIC AND FOREIGN BUILDING LOAN ASSOCIATIONS

171. Charter. At any time when ten or more persons may desire to form a building and loan association under the provisions of this article, they shall make application to the secretary of state in the manner prescribed by Section 1304. The said secretary is hereby empowered to grant charters to said association, provided that no charter granted under or by virtue of the provisions of this article shall be for a longer period than twenty years. (S. 1893, § 1143.) 5376 C. O. S. 1921.

Foreign corporation cannot do business in Oklahoma unless it complies with law.

Holt vs. Aetna B. & L. Assn. 78 Okla. 307, 190 Pac. 873.

Midland S. & L. Assn. vs. Development Co. 81 Okla. 172, 197 Pac. 484.

172. Capital Stock.

The capital stock of any corporation created by virtue of this article shall at no time consist of more than two thousand five hundred shares, of two hundred dollars each, or five thousand shares of one hundred dollars each, the installments on which stock are to be paid at such time and place as the by-laws shall appoint, no periodical payment to be made exceeding two dollars on each share, Every share of stock shall be subject to a lien for the payment of unpaid installments and other charges incurred thereon, under the provisions of the charter and by-laws, and the by-laws may prescribe the form and manner of enforcing such lien. New shares of stock may be issued in lieu of the shares withdrawn or forfeited. The stock may be issued in one or more successive series in such amount as the board of directors or stockholders may determine, and any stockholder wishing to withdraw from the said corporation shall have power to do so by giving thirty day's notice of his intention to withdraw, when he shall be entitled to receive the amount paid in by him, and such proportion of the profits as the by-laws may determine, less all fines and other charges. Provided, that at no time shall more than one-half of the funds in the treasury of the corporation be applicable to the demands of withdrawing stockholders without the consent of the board of directors, and that no stockholder shall be entitled to withdraw whose stock is held in pledge for security. Upon the death of a stockholder, his legal representative shall be entitled to receive the full amount paid by him and legal interest thereon, first deducting all charges that may be due on the stock. No fines shall be charged to a deceased member's account from or after his decease, unless the legal representative of such decedent assumes the future payments of the stock. (S. 1893 †1144.) 5377 C. O. S. 1921.

Section construed.

Holt vs. B. & L. Assn. 78 Okla. 307, 190 Pac. 873.

Rule adopted July 1, 1925, by Board.

The Building and Loan Board is of the opinion that partial withdrawals are not warranted by statute. You are, therefore, instructed to discontinue partial withdrawal privileges, and if your by-laws provide for partial withdrawals of any class of stock, you should amend your by-laws to conform to the law. When stock is assigned to the Association for a loan, the opinion mentioned does not question the legal right of an association to apply any portion of the value of such assigned stock, to the loan, fines, taxes, insurance, or any other legal charge against the assigned stock or property jointly mortgaged.

173. Capital May Be Increased.

Domestic mutual building and loan associations, organized un-

der the laws of the State of Oklahoma, are hereby authorized and empowered to increase their authorized capital stock to such amount as may be determined advantageous by such association, in the manner as herein provided. (L. 1909, S. B. 138, took effect February 18, 1909.) 5378 C. O. S. 1921; R. L. 1294.

How and When Increased. Any such association desiring to increase its authorized capital stock may do so at any regular meeting of the stockholders or at any special meeting of the stockholders called for that purpose. Upon the presentation to the secretary of state of a certified copy of the minutes of any such meeting, certified to by the officers and board of directors of such association, showing and disclosing that a majority of the stockholders desire an increase of capital stock to the amount to which such increase shall be made, and upon the payment to the secretary of state of the regular fees prescribed by law, it shall be the duty of the secretary of state to issue to any such association, an amended charter and articles of incorporation which shall authorize such association to increase its capital stock to the desired amount. (L. 1909, S. B. 138, took effect February 18, 1909.) 5379 C. O. S. 1921, R. L. 1295.

174. By-Laws—What to Contain. The number, titles, functions and compensation of the officers of any corporation created by virtue of this article, their terms of office, the time of their election, as well as the qualifications of electors, and the votes and manner of voting, and the periodical meetings of said corporation, and the manner and terms upon which loans shall be made and repaid shall be determined by the by-laws. See Note (4). R. L. 1296, 5380 C. O. S. 1921.

Rule of Board adopted July 1, 1925.

The constitution, by-laws, plans and methods of conducting business, and the manner of keeping the books and records of Building and Loan Associations doing business in the State of Oklahoma, including to form and manner of issuing contracts or stock, notes, mortgages and all matters incident thereto, must be submitted to and approved by the Building and Loan Board.

175. By-Laws. The by-laws of every corporation created under the provisions of this article, or of those accepting the provisions of the same, shall be deemed and taken as its law, subordinate to this statute. They shall be made by the stockholders, or the board of directors, at their annual meeting or at any stated meeting of the board of directors. They shall prescribe the time and place of meeting of the corporation, the power and duty of its officers, the fines and penalties to be imposed upon delinquents and borrowers for the non-payment of dues, interest and premiums, and such other matters as may be pertinent and necessary for the business to be trans-

Sec. 5, C. 28 L. 1925 require all by-laws to be approved by Building and Loan Board.

Rule of Board adopted July 1, 1925.

The Building and Loan Board is of the opinion that it is both possible and probable that conditions may prevail when fixed dividends on full paid stock as now issued would receive a greater portion of the earnings of your Association than installment and pre-paid stock. There is a possibility that this would violate the mutuality of the Associations, and the Building and Loan Supervisor is hereby instructed to request all Associations to discontinue issuing stock to guarantee a fixed rate of dividend unless the certificate in addition to the rate as specified, shall contain a proviso as follows:

Provided that the earnings of the Association shall be sufficient to pay the same rate of dividend as is provided for in this certificate on all other classes of stock, and that in no case shall a greater rate of dividend be paid on full paid stock than is paid on installment and pre-paid stock.

176. Payment of Loans. A borrower may repay a loan at any time by the payment to the corporation of the principal sum borrowed, together with interest not to exceed twelve per cent per annum; together with such per cent of premium per annum as may have been bid for the preference or priority of such loan, and any fines or charges that may be imposed upon such stockholders at the time of such repayment; or in case the amount of premium bid for the priority of such loan be deducted in advance, and the repayment thereof is made before the expiration of the eighth year after the organization of the corporation there shall be refunded to such borrower one-eighth of the premium paid for every year of the said eight years unexpired. Provided, that when the stock is issued in separate series, the time shall be computed from the date of the issuing of the shares on which the loan was made. Provided, further, that when the series of stock has a less period than eight years to complete full payment thereof, there shall be refunded only pro rata for the unexpired term of the series; and provided further; that when the by-laws of the corporation prescribe a different manner and terms upon which a loan may be repaid, then the repayment can only be made in accordance with the by-laws of such corporation. (S. 1893, §1147.) Sec. 1298 R. L. 5382 C. O. S. 1921.

Stock legally issued in Conformity with By Laws.

McGuire vs. Association 112 Okla. 158, 240 Pac. 722.

177. Charges Not Usurious. No premiums, fines or interest on such premiums that may accrue to the said corporation according to the provisions of this article shall be deemed usurious except as herein otherwise provided; and the same may be collected as debts of like amount are now by law collected in this state. (L. 1893, §1148.) Note (6). 1299 R. L.: 5384 C. O. S. 1921.

Under old law loan without bid does not authorize charging premiums and such premiums and dues will be applied to discharge loan. *Aetna B. & L. Assn. vs. Rouch* 32 Okla. 735, 124 Pac. 24.

178. Neglect Not to Affect Life of Corporation. No corporation created under this article shall cease or expire from neglect on the part of the corporation to elect officers at the time mentioned in their charter or by-laws, and all officers elected by such corporation shall hold their offices until their successors are duly elected and qualified. (L. 1893, †1149.) 1300 R. L.: 5384 C. O. S. 1921.

179. Association May Purchase at Sheriff's Sale. Any building or loan association incorporated under the provisions of this article, or any one heretofore or hereafter incorporated, accepting the provisions of the same, is hereby authorized and empowered to purchase at the sheriff's or other judicial sale, or at any other sale, public or private, any real estate upon which such association may have or hold any mortgage, judgment, lien or other incumbrance, or in which said association may have an interest, and may sell, convey, lease or mortgage at pleasure the real estate so purchased, or any other that such association may hold or be entitled to, to any person whatsoever; and all sales of real estate heretofore made by such association to any person or persons not members of the association so selling are hereby confirmed and made valid. (L. 1893, †1150.) 1301 R. L.: 5385 C. O. S. 1921.

Note: See Constitution of Oklahoma, Art. XXII, Sec. 2, limiting to seven years the period for which any corporation may hold title to real estate bid in on foreclosure or taken for debts.

130. Validating Securities. All mortgages heretofore given to the building and loan associations organized under the laws of this state, accepting the provisions of this article, are hereby declared good and valid to all intents and purposes, as though they had been made to corporations organized under the provisions of this article. (L. 1893, †1151.) 1302 R. L.: 5386 C. O. S. 1921.

181. Mode of Incorporation The charter of an intended corporation under the provisions of this article must be subscribed by ten or more persons, a majority of whom must be citizens of this state and set forth:

First. The name of the corporation.

Second. The purpose for which it is formed.

Third. The place where it has its principal office, or the business is to be transacted.

Fourth. The time for which it is to exist.

Fifth. The names and residences of the subscribers, and the number of shares subscribed by each.

Sixth. The number of its directors, and the names and residences of those who are selected as directors, and who shall hold their office until the next annual election, or until their successors are elected and qualified.

Seventh. The amount of its capital stock, and the number and par value of its shares. (L. 1893, Sec. 1152.) 1303 R. L.: 5387, C. O. S. 1921.

182. Same—Notice of Application for Charter. Notice of the intention to apply for such charter shall be inserted in two newspapers of general circulation printed in the proper county for three weeks setting forth briefly the character and object of the corporation to be formed, and the intention to make application therefor. The certificate for a corporation under the provisions of this article shall set forth all that is hereinbefore required to be set forth; the same shall be acknowledged by at least five of the subscribers thereto before a notary public or other officer authorized to administer oaths, and they shall also make and subscribe an oath or affirmation before him, to be indorsed on said certificate, that the statements contained therein are true. The said certificate, accompanied with proof of publication of the notice as hereinbefore provided, shall then be produced to the secretary of state, who shall examine the same, and if he find it to be in proper form, as specified in the foregoing sections, he shall approve thereof and endorse his approval thereon, and issue letters patent in the usual form, incorporating the subscribers and their associates and successors into a body politic and corporate in deed and in law, by the manner chosen; and the said certificate shall be recorded in the office of the secretary of state, in a book to be by him kept for that purpose, and a certified copy of the said certificate shall be recorded in the office of the register of deeds of the county where the principal business of the association is transacted. Certified copies of the records thereof shall be competent evidence for all purposes in the several courts of this state. (S. 1893. §1153. Note 7.) 1304 R. L.: 5388 C. O. S. 1921.

183. Management of Business. The business of every corporation created hereunder, or of those accepting the provisions of this article, shall be managed and conducted by a president, a board of directors or trustees, a secretary and treasurer, and such other officers or agents as the by-laws may provide. The directors or trustees shall be elected annually by the stockholders or members, at the time fixed by the by-laws, and shall hold their office until others are chosen and qualified in their stead; the manner of such choice and of the choice of appointment of all other agents or officers shall be prescribed by the by-laws. The number of directors or trustees shall not be less than five, one of whom shall be chosen president by the directors, or by the members of the corporation, as the by-

laws may direct; the members of said corporation may, at a meeting called for that purpose, determine, fix or change the number of directors or trustees that shall thereafter govern its officers, and a majority of the whole number of such directors or trustees shall be necessary to constitute a quorum. The treasurer shall give bond in such sum, and with such sureties, as shall be required by the by-laws, for the faithful discharge of his duties, and he shall keep the moneys of the corporation in a separate bank account, to his credit as treasurer, and if he shall neglect or refuse so to do he shall be liable to a penalty of fifty dollars for every day he should fail so to do, to be recovered at the suit of any informer in an action of debt. (S. 1893, †1155.) Note (8). 1306 R. L.: 5370 C. O. S. 1921.

Rule adopted by Board July 1, 1925.

The constitution, by-laws, plans and methods of conducting business, and the manner of keeping the books and records of Building and Loan Associations doing business in the State of Oklahoma, including the form and manner of issuing contracts or stock, notes, mortgages and all matters incident thereto, must be submitted to and approved by the Building and Loan Board.

184. Stock Certificates. The directors of such corporation shall procure certificates of stock, and shall deliver them signed by the president and secretary and sealed with the common seal of the corporation to each person entitled to receive the same, according to the number of shares held by him, which certificate or evidence of stock shall be transferable at the pleasure of the holder in person or by attorney duly authorized as the by-laws may prescribe, subject, however, to all payments due or to become due thereon; and the assignee or the party to whom the same shall have been so transferred shall be a member of said corporation, and have and enjoy all the immunities, privileges and franchises, and be subject to all the liabilities, conditions and penalties incident thereto, in the same manner as the original subscriber or holder would have been; but no certificate shall be transferred so long as the holder is indebted to said company, unless the board of directors shall consent thereto. (S. 1893. †1156.) 1307 R. L.: 5391 C. O. S. 1921.

185. Oath of Officers in Election. No person acting as judge or officer for holding an election for any such corporation shall enter upon the duties of his appointment until he take and subscribe an oath or affirmation before a notary public or other person qualified by law to administer oaths, that he will discharge the duties of his office with fidelity, that he will not receive any vote but such as he believes to be legal, and if any such judge or officer shall knowingly or wilfully violate his oath or affirmation he shall be subject to all the penalties imposed by law upon the officers of the general election of this state for violating their duties, and shall be proceeded against in like manner and with like effect. (S. 1893, †1157.) 1308 R. L.: 5392 C. O. S. 1921.

186. Vacancies. In case of death, removal or resignation of the president, or any of the directors, secretary, treasurer or other officer of such company, the remaining directors may supply the vacancy thus created until the next general election. (S. 1893, §1158.) 1309 R. L.: 5393 C. O. S. 1921.

187. Loans, Procedure, Rate of Interest. Any such association may, by its by-laws, dispense with the offering of its moneys for bid, and in lieu thereof loan or advance its moneys to members at such rate of interest and premium as may be provided by the by-laws. Such premium to be paid in installments, shall not be deemed usurious, but shall be taken to be the payment as it falls due, and the same shall be lawful, in so far as the said premium, together with interest, shall not exceed one per cent per month.

5394 C. O. S. 1921; S. L. 1913, p. 446, amending Sec. 1310 R. L.

Where contract made not in conformity with building and loan law, if interest, premiums, etc., exceed contractual note, contract usurious.

Holt vs. Aetna B. & L. Assn. 78 Okla. 307, 190 Pac. 874.

Union Savings Assn. vs. Cummins, 78 Okla. 265, 190 Pac. 869.

188. To Issue Shares in Series. Any building and loan association may issue shares of stock in series, or on what is known as the perpetual or permanent plan, when each share shall run from date of issue; Provided, that the by-laws of said association shall state upon which plan the association issues shares. (L. 1895, p. 77.) 1311 R. L.: 5395 C. O. S. 1921.

189. Term of Office of Directors. Any building and loan association may elect directors or trustees for a longer term than one year if such term be set forth in the by-laws; Provided, that no director or trustee shall be elected for a longer period than three years, and the terms of at least two such directors or trustees shall expire each year. (L. 1895, p. 77.) 1312 R. L.: 5396 C. O. S. 1921.

190. May Extend Life of Association. Every such corporation may extend the time of its duration so as to make the entire period of its corporate existence not to exceed fifty years, by a vote of three-fourths of its stockholders at any meeting called for this purpose, thirty days' notice having first been given each stockholder by postal card or letter, and by paying to the secretary of state a fee of two dollars. (L. 1895, p. 77.) 131 R3. L.: 5397 C. O. S. 1921.

191. Semi-Annual Report. Every such corporation doing business in the state shall, semi-annually, in the months of January and July, publish in one or more newspapers in the city or county where such corporation is located, a statement verified by the oath of its president or secretary, setting forth its actual financial condition and the amount of its property and liabilities, under a penalty of two hundred dollars to the state, to be recovered by civil action for

the benefits of the association, against the president, secretary or directors on the relation of any stockholder. It shall also deposit a copy of said statement, verified as aforesaid, in the office of the secretary of state. (L. 1895, p. 77.) 1314 R. L.: 5398 C. O. S. 1921.

192. Loan or Investment Funds. Every such corporation shall lend (its) funds only on real estate security, or on the security of its own shares of stock, such loans being made upon the terms and conditions and in the manner which shall be specified by its by-laws. No loans shall be made on shares of stock to an amount exceeding the installments actually paid in on such shares. Such corporation may, however, employ a portion of its capital stock in the purchase of real estate and the erection of building thereon, for rent or otherwise. If at any time it shall happen that there is no demand by the shareholder for the funds of the corporation, then such funds may be loaned to others who are not shareholders, at such rate of interest and premium as the directors may fix. No loans shall be made to members or others on personal security or on leasehold. (L. 1895, p. 78.) 1315 R. L.: 5399 C. O. S. 1921.

Loans must be made in conformity with law.

Aetna B. & L. Assn. vs. Harris, 67 Okla. 257, 170 Pac. 700.

193. Matured Shares. When any unpledged shares of stock shall reach the maturity value thereof, all payments of dues thereon shall cease, and the holders thereof shall be entitled to receive, and shall then be paid out of the funds of such corporation, the maturity value thereof for each share so matured and held: Provided, however, that if there are not funds then on hand sufficient and applicable to the payment and redemption of said shares, then such shareholder shall be entitled to receive interest on the sum then due them, from the date of maturity of said shares to the date of redemption, at a rate of not less than six nor to exceed eight per cent interest per annum, as may be provided by the by-laws of said association; and provided further, that at no time shall more than half of the funds in the treasury be applicable to the payment or redemption of such matured shares, unless by consent of the board of directors. (L. 1895, p. 78.) 1316 R. L.: 5400 C. O. S. 1921.

194. Minors and Married Women. It shall be lawful for any minor above the age of fourteen, or a married woman, to take and hold shares in such corporation, and for such corporation to pay to any minor any money that may be due him in respect to any shares, and his receipt therefor shall be valid; but no minor shall be eligible to hold any office in said corporation. (L. 1895, p. 78.) 1317 R. L.: 5401 C. O. S. 1921.

195. Associations Heretofore Incorporated. Any building and loan association which has made and filed its articles of incorporation under the laws of the state and received its certificate of incorporation, and whose principal place of business is within the state,

shall be entitled to all the benefits of all laws relating to building and loan associations, and have all the powers, rights and privileges by such laws conferred, upon accepting the same by unanimous vote of its board of directors at a regular meeting thereof, and filing with the secretary of state a certificate of such acceptance in writing under the duly authenticated seal of said association to be by him recorded as provided in Section 1304. Said certificate shall set forth the mode or plan of said association in charging premiums or bonus for priority of loan, and upon its acceptance and approval by the secretary of state, he shall issue his certificate to said corporation reciting the same, and thereafter said association shall be conclusively deemed to have been duly and legally incorporated at and from the time of the issuing of its original certificate of incorporation, and the acts of such associations not in violation of law are hereby ratified and made legal. (L. 1895, p. 78.) 1318 R. L.: 5402 C. O. S. 1921.

196. Exemption From Taxation. The real estate, furniture, fixtures and all personal property, except as otherwise provided, of mutual building and loan associations, organized and doing business in this state, shall be subject to taxation in the same manner and to the same extent as other like property. The notes and mortgages of building and loan associations chartered, organized and doing business in this state, under the laws of this state and which are given by the members of such association upon real estate located in the state, and which real estate is subject to taxation under the laws of the state, and the shares issued by a building and loan association loaning its funds to members within this state, shall not be subject to taxation. (L. 1899, p. 161.) 1391 R. L.: 5403 C. O. S. 1921.

Old statute construed.

Midland S. & L. vs. Nicoll 76 Okla. 27, 183 Pac. 731.

197. Section 1. There is hereby created a board to be composed of three members and the Bank Commissioner which shall be designated as the Building and Loan Board.

C. 28, L. 1925.

198. Section 2. Such Building and Loan Board shall be composed of the Bank Commissioner who shall be ex officio chairman thereof and three members who shall be appointed by the Governor of the State by and with the advice and consent of the Senate. One member of said board shall be appointed for a term of one year, one for a term of two years and one for a term three years. Thereafter each of said members shall be appointed to hold office for a term of four years from the dates of their appointments. Each of said members shall be citizens of the State of Oklahoma and shall have had at least three years actual experience in the active management of building and loan associations and shall be actively engaged in the management of an association during their terms of of-

office. The members of said board other than the Bank Commissioner shall receive a compensation of Ten (10.00) Dollars per day for each day actually and necessarily consumed in the performance of the duties of said office, and in addition thereto shall be paid the necessary expenses in the performance thereof which shall be paid from the revenues hereinafter provided. In case of death, removal, resignation or other vacancy the Governor may appoint, according to the provisions of this Act and in compliance with the qualifications herein prescribed, some suitable person to fill such unexpired term. Meetings of said board shall be held monthly at the State Capitol and special meetings may be called at any time by the Bank Commissioner. A majority of the board shall constitute a quorum for the transaction of business, and in case of a tie in voting the Bank Commissioner shall be entitled to cast a vote.

C. 28 L. 1925.

199. Section 3. The Bank Commissioner, with the approval of the said board, is authorized to appoint not more than three examiners to be known as Building and Loan Auditors, one of whom may be designated by the Bank Commissioner with the approval of said Board of Building and Loan Supervisor. Said supervisor must have had at least two years actual experience in the active work of building and loan associations and must be a citizen of the State of Oklahoma. Such supervisor shall receive a salary not to exceed Three Thousand Six Hundred (3,600.00) Dollars per year and each auditor shall receive a salary of Two Thousand, Four Hundred (\$2400.00) Dollars per year for the first year's service, and for each succeeding year thereafter shall receive an increase in salary Two Hundred (\$200.00) Dollars per year until such salary shall have reached the sum of Three Thousand (\$3,000.00) Dollars per year, which last amount shall be the greatest compensation paid to any of said auditors. Said auditors shall be paid their actual traveling expenses including railroad fare, livery hire, telephone, telegraph and hotel bills while traveling upon business for said department; provided, not more than Four (4.00) Dollars per day, for expenses other than travel, shall be paid. There is hereby created the position of filing clerk and stenographer who shall be appointed by the Bank Commissioner and who shall receive a salary of Fifteen Hundred (\$1,500.00) Dollars per year. All of said salaries provided for in this Act and all compensation and expenses authorized shall be payable monthly by warrants drawn by the State Auditor against the special fund hereinafter provided for.

C. 28 L. 1925.

200. Section 4. The Assistant Bank Commissioner shall be secretary of said Building and Loan Board and in case of absence, sickness or inability of the Bank Commissioner to preside at any

meeting of said board, the Assistant Bank Commissioner shall act as chairman thereof until the Bank Commissioner may be able to resume his duties.

C. 28, L. 1925.

201. Section 5. Said board shall have general supervision and control over all domestic and foreign building and loan associations doing business in this State and shall have full power to grant or refuse any permit or license to any association to do business in this State when such association is not conducting its business in conformity with the laws of the State and the rules and regulations of said board. All by-laws and amendments thereto of associations heretofore adopted shall be approved by said board and said board shall have the authority to approve, modify or reject any such by-laws or amendments thereto. Said board shall have full power and authority to prescribe all necessary and proper rules and regulations for the conduct and operation of buliding and loan associations in this State and shall prescribe the manner in which the books and records of associations doing business in this State shall be kept and no building and loan asociations doing business in this State shall be permitted to pay any dividend when it has losses during any year in excess of its reserve and undivided profits, until such losses shall have been charged off.

C. 28, L. 1925.

Rule adopted July 1, 1925, by Board.

It was ordered that each application for permit to do business in the State of Oklahoma by a domestic corporation as a Building and Loan Association, shall be accompanied by deposit of \$100.00 with the Bank Commissioner, the same to be used for the purpose of defraying the expenses of the necessary investigation and report, and that each application for permit to do business as a Building and Loan Association in the State of Oklahoma by a foreign corporation shall be accompanied by a deposit of \$500.00 with the Bank Commissioner to be used for the purpose of defraying the expenses of the necessary investigations and report. Provided that the above paragraph shall not apply to Building and Loan Associations heretofore authorized to do business in the State.

Each Association doing business in this State shall cause to be printed, stamped or written, upon the application for membership and stock, the application for a loan, and upon the stock certificate and the pass book, the amount of the membership fee, or the withdrawal fee, if any, and all tems and conditions of the entrance and withdrawal of such member from said Association.

202. Section 6. An examination of every building and loan association doing business in this State shall be required at least once each year. Said board may require additional examinations to

be made at any time when in its judgment an examination may be necessary. Every building and loan association shall pay Twenty (\$20.00) Dollars per day and actual expenses for each examiner for actual time consumed in making such examination and an additional sum of four cents per thousand dollars of the total assets of such association invested in the State of Oklahoma, as fees for each examination which shall be paid to the State Treasurer and be held and kept apart by the State Treasurer in a special and distinct fund which is hereby designated as the building and loan fund. All warrants which may be drawn under the terms of this Act to pay expenses, salaries or compensation provided for in this Act shall be drawn against and paid out of said building and loan fund.

It is hereby declared to be the intent of the Legislature that the necessary expenses of such supervision, control and examination shall be paid by the building and loan association for the purpose of meeting the necessary expenses thereof and the revenues provided in this Act shall be kept and used by the State Treasurer solely and for the purpose only of paying the expenses provided for in this Act.

C. 28, L. 1925.

Rule of Board adopted July 1, 1925.

Section 6 of Engrossed Senate Bill No. 120 was interpreted by the Building and Loan Board in part as follows: "That the 4c per thousand fee to be collected on the total assets of such Association invested in the State of Oklahoma, shall be collected annually."

203. Section 7. Every foreign building and loan association doing business in this State shall conduct its business in accordance with the laws of this State governing domestic building and loan associations. No foreign building and loan association shall be permitted to operate in this State until it has first procured from said board a certificate of authority to so do and such association by accepting such certificate of authority shall at all times be subject to the laws and all rules and regulations governing domestic building and loan associations. Each foreign building and loan association shall file with the Secretary of State a certified copy of its articles of incorporation and pay to the Secretary of State the fees required by Section 6476. Compiled Oklahoma Statutes, 1921. All laws relating to issue and re-issue of stock of domestic associations shall apply to foreign associations. Every foreign association doing business in this State shall keep on deposit with the State Treasurer a surety bond, United States Bonds, State, county or other municipal bonds to be filed by said board in the sum of not less than Ten Thousand (\$10,000.00) Dollars and not exceeding one (1%) per cent of the assets of such foreign association invested in this State, provided that in no event shall the bond required exceed One Hundred Thousand (\$100,000.) Dollars, as a guarantee of

the faithful performance of its obligations under the terms of its contracts with citizens of this State, which securities or bonds shall be approved by the Bank Commissioner.

C. 28, L. 1925.

Rule adopted by Board July 1, 1925.

It was ordered that each application for permit to do business in the State of Oklahoma by a domestic corporation as a Building and Loan Association, shall be accompanied by deposit of \$100.00 with the Bank Commissioner, the same to be used for the purpose of defraying the expenses of the necessary investigation and report, and that each application for permit to do business as a Building and Loan Association in the State of Oklahoma by a foreign corporation shall be accompanied by a deposit of \$500.00 with the Bank Commissioner to be used for the purpose of defraying the expenses of the necessary investigations and report. Provided that the above paragraph shall not apply to Building and Loan Associations heretofore authorized to do business in the State.

204. Section 8. Building and Loan associations may borrow money for any of its corporate purposes, not to exceed however, fifteen (15%) per cent of its total assets, and may issue unsecured evidence of indebtedness therefor; and such associations may borrow from and lend to like associations upon the approval of the board of directors of both the borrowing and lending associations, together with the approval of the Bank Commissioner.

C. 28, L. 1925.

Rule of Board adopted July 1, 1925.

Section 8, Senate Bill No. 120, was interpreted to mean that the maximum amount any Association may borrow from any and all sources shall be limited to 15% of its total assets. Further that where the borrowing is to be from a like Association, full details of the loan must be approved by the Board of Directors of each Association and have the approval of the Bank Commissioner before said loan is consummated.

205. Section 9. Any association in this State, may, with the approval of its board of directors, sell, assign, or transfer without recourse any notes and mortgages given to secure the same to a junior lien-holder when the terms of such mortgage have been broken and the same is subject to foreclosure.

C. 28, L. 1925.

206. Section 10. When it shall appear to the Bank Commissioner, after an examination of the affairs and conditions of a building and loan association, that such association is insolvent, the Bank Commissioner shall with the approval of a majority of the Building and Loan Board, take possession thereof and all of its property and assets for the purpose of winding up its affairs and paying the

creditors thereof. For the purpose of liquidation the Bank Commissioner may appoint such liquidating agent or agents, attorneys and employees that may be necessary in winding up the affairs of such insolvent association. All liquidating agents and employees, shall, before entering upon the duties of their office, execute to the State of Oklahoma a fidelity bond in such amount as the Bank Commissioner shall designate which shall be approved by the Bank Commissioner and filed in his office. The bond of such agent shall be conditioned upon the faithful performance of all duties required of such agents and employees and the faithful accounting to the Bank Commissioner for all monies, funds and assets that shall come into possession of such agent upon demand of the Bank Commissioner. The compensation of such liquidating agent or employees shall not exceed the sum of Four Thousand (\$4,000.00) Dollars per year. Such liquidating agents and attorneys shall hold office at the will and pleasure of the Bank Commissioner and such liquidating agents shall submit to the Bank Commissioner and account duly verified each month, giving in detail a statement of all receipts and disbursements made from the assets in their possession, and each three months after appointment such liquidating agent shall file in the District Court of the county in which said association was located a complete statement, setting forth in detail items of receipts and disbursements out of the assets of such association, and no payments shall be made from such assets except upon written order of the Bank Commissioner.

The Bank Commissioner shall have power and authority to institute and prosecute all necessary suits for the purpose of liquidation of any insolvent association taken over by the Bank Commissioner, and such suits shall be brought in the name of the State of Oklahoma, on the relation of the Bank Commissioner, and no costs shall be required and the State of Oklahoma shall not be liable for any costs in the prosecution of said suits. After complete liquidation of an insolvent association and when the creditors thereof shall have been paid in full, if there remain in the hands of the Bank Commissioner any assets, such assets remaining shall revert to the stockholders and be surrendered by the Bank Commissioner to such stockholders of said insolvent association. The Bank Commissioner shall have authority, by and with the consent of the District Court or a judge thereof in the county in which an insolvent association is located to compound bad or doubtful debts.

C. 28, L. 1925.

207. Section 11. Any association authorized to do business in the State of Oklahoma is authorized to charge not to exceed one (1%) per cent of the par value of each share of stock issued which may be designated by such association as a membership fee, a cancellation fee, or a withdrawal fee, subject however, to such regulations as may be provided by the Building and Loan

Board. In no case shall such fee charged against the funds paid in by the shareholder be greater than one (1%) per cent of the par value of every share issued as herein provided.

C. 28, L. 1925.

208. Section 12. Section 5350 of Compiled Oklahoma Statutes, 1921, shall have no application to building and loan associations doing business in this State.

C. 28, L. 1925.

209. Section 13. The members of the Building and Loan Board provided for herein shall be subject to removal and be removed from office in the manner and for the causes specified in Chapter 7, Article 4, Compiled Laws of Oklahoma 1921.

C. 28, L. 1925.

210. Section 14. All acts and parts of acts in conflict herewith be and the same are hereby repealed. It is provided further that in case any section or paragraph of this Act shall be declared invalid, such invalidity shall not affect the remaining portions of the said Act.

C. 28, L. 1925.

211. Building and Loan Auditor. The Building and Loan Auditor, as now provided by law, shall be a citizen of this state, and shall have had at least three years' actual experience in managing Building and Loan Associations.

5418 C. O. S. 1921: L. 1913, p. 445.

Prior to this act, loans must be by competitive bidding.

Union Savings Assn. vs. Cummins, 78 Okla. 265, 190 Pac. 869.

212. Subject to Bank Commissioner. Any building and loan association now existing, or hereafter organized under the laws of the State of Oklahoma, and all foreign building and loan associations doing business in the State of Oklahoma, or any person, partnership or corporation engaged in the business of disposing of contracts on the partial payment plan, shall be subject to the supervision of the Bank Commissioner: Provided that the provisions of this act shall not apply to any person, partnership or corporation, domestic or foreign, engaged in the business of a money lender where either the principal or interest of such money loaned is paid by installments on the partial payment plan and where no stock or certificate of interest in such business is issued to the borrower or in consideration of the money loaned; Provided, however, that the provisions of this act shall apply to all persons, firms or corporations doing a business of selling contracts upon which to predicate or base a loan at some future date.

5419 C. O. S. 1921; L. 1913 p. 116.

By Laws must be approved by Bank Commissioner.

McGuire vs. Assn. 112 Okla. 158, 240 Pac. 722.

213. Issue of Stock and Reports. Any Building and Loan Association doing business in the State of Oklahoma may issue its stock in full-paid, prepaid or installment shares, in such amount and at such times and in such manner as the by-laws may provided, and each Building and Loan Association, or other person, partnerships or corporations coming under the provisions of this Act shall file with the Bank Commissioner a certified copy of its charter, constitution and by-laws, and its plan of conducting business, together with a statement, verified by oath of its president and secretary, showing the amount of authorized capital stock, assets and liabilities, the kind and character of the same, together with any other information which may be required, which statement, verified by oath, shall be filed semi-annually thereafter. And any such Building and Loan Association may charge a fee of not to exceed \$5.00 for examining each piece of real estate mortgaged to such association to secure a loan.

5420 C. O. S. 1921; L. 1913 p. 445.

Rule of Board adopted July 1, 1925.

Every Building and Loan Association doing business in this State whether heretofore or hereafter organized, shall accumulate from its earnings a "reserve fund", for the payment of losses, and at least five per cent of the net earnings shall be set aside at each dividend paying period to such fund until said fund amounts to 5 per cent of the total assets. All losses shall be paid out of such fund and said fund shall be a reserve fund used for the payment of losses only, and whenever the amount in such fund falls below 5 per cent of the total assets as aforesaid, it shall be replenished by appropriations of at least 5 per cent of the net earnings as hereinbefore provided until it again reaches such amount. Any sums heretofore transferred to the reserve fund of any association shall constitute its "reserve fund" when this regulation takes effect.

214. Loaning Money Without Bids. Section 17, Article 17, Chap. 17, Statute 1893, is hereby amended to read as follows: Any such Association may, by its by-laws, dispense with the offering of its moneys for bids, and in lieu thereof loan or advance its moneys to members at such rate of interest or interest and premium as may be provided by the by-laws. Such premium to be paid in installments shall not be deemed usurious, but shall be taken to be the payment as it falls due, and the same shall be lawful, in so far as the said premium, together with interest, shall not exceed one per cent per month.

215. Bank Commissioner's Certificate. Any Building and Loan Association now existing, or hereafter organized under the laws of the State of Oklahoma, or any foreign Building and Loan Association, person, partnership or corporation engaged in the business of disposing of contracts of stocks on the partial payment plan must first secure a certificate of authority from the Bank Commissioner, before is can transact any business in the State of Oklahoma. 5422 C. O. S. 1921, L. 1913 p. 446.

216. Same—Terms of and Fees. Certificates of authority issued to Building and Loan Associations now existing, or organized under the laws of the State of Oklahoma, shall be for the period of six months, and if such association shall be solvent, and shall be doing and intending to transact a legitimate business, and have not violated any of the provisions of law, it shall be the duty of the Bank Commissioner to issue certificates for each subsequent six months period, upon the payment of Two and 50-100 (\$2.50) Dollars to the Bank Commissioner, and thereupon such Building and Loan Association shall be duly authorized to transact a building and loan business in any county in the State of Oklahoma, during the period for which said certificate of authority is issued, unless sooner revoked. 5423 C. O. S. 1921 L. 1913 p. 447.

217. Examination by Bank Commissioner. The Bank Commissioner shall, at least once each year, or oftener, if he deems necessary, investigate the conditions of all Building and Loan Associations, and all other persons, partnerships or corporations included in this Act which may be doing business in the State of Oklahoma, and shall, for the purpose of making such examinations, have all the rights and powers to do and perform all things necessary to make such examinations as is now given to the examiner of State banks. 5424 C. O. S. 1921, L. 1913 p. 447.

218. Voluntary Liquidation. No such association, whether heretofore or hereafter organized in this state, shall cease to do business or endeavor to liquidate its affairs prior to the maturity of all of its stock, except by and with the consent of the stockholders representing seventy-five per cent of its capital stock. The liquidation of any Building and Loan Association shall be under the supervision of the Bank Commissioner. It shall be unlawful for such association to make a voluntary general assignment of its business affairs, and if it is discovered to be in failing condition, the officers and directors thereof shall immediately place it in the hands of the Bank Commissioner. But should the officers and directors of an association make an attempt to make a voluntary general assignment of its assets, Bank Commissioner shall, as soon as practicable, by a thorough examination into its affairs, its actual financial condition, and if, in his opinion, the association is solvent

and can be place din condition to resume business to the benefit of its creditors and stockholders, he shall proceed to conduct and manage its affairs, but if he shall become satisfied that the association is insolvent and cannot resume business, he shall immediately institute proceedings in the proper court to have a receiver appointed for such association, and shall proceed to wind up its affairs and business for the benefit of its creditors and stockholders. For his service in managing and conducting the affairs of an insolvent association he shall receive reasonable compensation, not to exceed two and one-half per cent of its assets, which, together with his necessary expenses, is to be paid out of said assets.

5427 C. O. S. 1921, L. 1913, p. 448.

Note: This section is modified as to insolvency by Sec. 10, C. 28, L. 1925.

219. False Swearing. If any president or secretary or other person swear falsely as to any material fact in the affidavit required by this service, such person shall be guilty of false swearing. 5429 C. O. S. 1921.

Fees to the State Treasurer.

Section 14. All fees and penalties collected herein shall be paid to the Bank Commissioner, which shall be paid to the State Treasurer for the benefit of the state. 5430 C. O. S. 1921.

220. Penalties. Any person, firm or corporation violating any provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not less than One Hundred (\$100.00) Dollars, nor more than One Thousand (\$1,000) Dollars, and in the event that the provisions of this Act has been violated by any person, he may be punished in addition to the above and foregoing by imprisonment in the county jail for not less than thirty (30) days, nor more than six months. 5431, C. O. S. 1921.

221. Privilege of Investment in Federal Farm Loan Bonds.

Section 1 (Senate Bill 315, S. L. 1917, p. 93). Any trust company, building and loan association, insurance company or banking company, organized under the laws of the State of Oklahoma, may invest its funds in Federal Farm Loan Bonds issued under the provisions of the Act of Congress, approved July 17, 1916, and any foreign corporation which, under the laws of this state, is required to deposit securities in the office of the State Treasurer in order to do business in this state, may deposit such Federal Farm Loan Bonds in lieu of any other security required by law to be so deposited. The officers having charge of any sinking fund in this state, or any county, city, town, township or school district thereof, may invest the sinking fund of the state or of such county, city, town, township or school district in Federal Farm Loan Bonds, and said bonds shall constitute security for the deposit of any public funds and be for the investment of trust funds.

8586 C. O. S. 1921.

FOREIGN BUILDING AND LOAN ASSOCIATIONS

222. Certificate of Authority. All foreign building and loan associations and all other corporations or associations of persons, incorporated, organized residing or having their place of business outside of the State of Oklahoma and transacting a building and loan business in the State of Oklahoma, by whatever name they may be known, shall conduct such business in the state in accordance with this article, and no such building and loan association shall have authority to transact any business in this state until it shall procure from the Bank Commissioner of this state a certificate of authority so to do. To procure such certificate, such building and loan association shall comply with the provisions of this article (L. 1905, p. 157).

1320 R. L.: 5404 C. O. S. 1921.

Note: C. 28, L. 1925, seem to modify this but not repeal it.

County does not require that foreign corporation be allowed to enforce contracts in conflict with state laws.

Holt vs. Aetna B. & L. Assn. 78 Okla. 308, 190 Pac. 873.

223. Certified Copy of Charter. Each building and loan association shall file with the bank commissioner a certified copy of its charter, constitution, by-laws and all other rules and regulations, showing its manner of conducting business, together with a statement, verified by the oath of the president or managing officer, showing the amount of capital stock, assets and liabilities, and the kind or character of the same; which statement verified by oath shall be filed semi-annually thereafter and the certificate of the bank commissioner shall be good for six months only from date thereof; and no provision of either the constitution, by-laws or rules and regulations shall be of any force or effect or be binding upon any person doing business with such association until a certified and verified copy of same has been filed with and approved by said bank commissioner and the provisions of this section fully complied with; if any president or managing officer of such building and loan association swear falsely in the affidavit required in this section, he shall be guilty of perjury. 1322 R. L.: 5406 C. O. S. 1921.

224. County Agents to be Appointed. Each building and loan association shall file with the bank commissioner a written statement, duly executed, naming a person in each county as its agent, upon whom service of summons and all other legal process can be had, and in the event of failure of such building and loan association to name such agent in any county or counties, the bank commissioner shall limit by its certificate of authority to such building and loan association issued, the territory in which same can transact business to the counties in which agents are named. (L. 1905, p. 158.)

1323 R. L.: 5407 C. O. S. 1921.

225. Fee For Certificate. In order to obtain the certificate of authority to transact business in this state, as heretofore referred to, each building and loan association shall, in addition to meeting the requirements of other sections of this article, file with the state bank commissioner an application in writing for such permit and shall accompany same with a fee of ten dollars, which fee shall be retained and not refunded in any case by the bank commissioner. If such bank commissioner is satisfied that such building and loan association is solvent and is doing and intends to transact a legitimate business, and has not violated any of the provisions of this article, he shall, when all the requirements of this article have been fully complied with, issue to such building and loan association a certificate of authority to transact business for the period of six months from date of such certificate; and until such certificate of authority is issued no building and loan association shall have authority to transact business in this state, except to close up its business. (L. 1905, p. 158.) See Note (1) R. L. 5408 C. O. S. 1921.

226. Commissioner To Examine. The bank commissioner may at any time investigate the condition of any building and loan association doing business in this state, and he shall for the purpose of making such examination have all the rights and powers to perform all things necessary to make such examination as he is now given in the examination for banks in this state. Whenever the bank commissioner ascertains that any building and loan association is insolvent or in a failing condition or that it has violated any of the provisions of this article, it shall be his duty to revoke the certificate of authority of such building and loan association, and thereafter it shall have no authority to transact any further business in this state except to wind up the old business on hand necessary to the closing up and dissolution of its business in its (this) state and upon revocation of its authority to do business in this state all obligations and debts owing by such building and loan association, including all notes, bonds or other indebtedness, shall at once become due and payable. After the bank commissioner has revoked such certificate of authority, he shall have the right and authority to issue a new certificate upon the building and loan association complying with all the requirements of this article and doing and performing all things which were necessary for the same to receive its first certificate of authority hereunder and satisfying the bank commissioner that it had remedied all wrongs by it committed by a violation of this article, and paying to said bank commissioner for such examination and renewal of authority the sum of twenty-five dollars as his fee. (L. 1905, p. 159.) See Note (2).

1325 R. L. 5409 C. O. S. 1921. C. 28 L. 1925 provide for a complete liquidation in event of insolvency.

227. Usurious Interest Prohibited.

Section 1. That Section 1326 of the Revised Laws of Oklahoma, 1910, be amended so as to read as follows:

“Section 1326. Any rate charged by a foreign building and loan association on account of interest or interest and premiums in excess of ten per cent per annum upon the amount loaned by such building and loan association which may be computed and collected monthly, shall be usurious and subject such company or association to the penalties for usury provided by the laws of the state. In estimating the amount of money paid by any borrower upon such loan in order to determine whether same is usurious there shall be included all interest premiums and all money paid to the company or its agent as commission, or in any other manner to procure such loan, except as hereinafter provided. Payments made by the borrower as dues on installments on shares of stock belonging to the borrower, in the building and loan association, shall not be computed as interest on the loan: Provided, that such building and loan association may charge a fee not to exceed five dollars for examination of title, and a membership fee not exceeding one per cent upon the amount of such loan fees for recording the mortgage or obligation, and a fee of fifty cents per month for each month that dues are delinquent.” (Chap. 283, S. L. 1915, p. 542.) 5410 C. O. S. 1921.

Foreign corporation complying with state law may enforce contract and same not usurious.

Midland S. & L. vs. Landrum 71 Okla. 115, 175 Pac. 544.

227-a. Loans by Foreign Associations. Any resident of this state who may purchase stock in any such building and loan association with the object and purpose of obtaining a loan of money from such building and loan association, and shall at the time of subscribing for such stock sign a written or printed application for such loan and either deliver such application to the agent of such foreign association, who has obtained his subscription for stock or who may mail his application for a loan of money direct to the home office of such building and loan association, shall, upon complying with all the by-laws, rules and regulations of such association, which are not in conflict with this article, be entitled to a loan of money not to exceed the par value of his stock in such foreign association. If such foreign association shall not, within sixty days from the date of such application for loan from such stockholder, close up such loan and pay over the proceeds thereof to such borrower, less the expenses therein mentioned, and all prior liens on the real estate he proposes to mortgage to such foreign association, to secure such loan, then and in that event such foreign association shall pay back to such proposed borrowing stockholder all money paid for stock to such foreign association or its agent. (L. 1905, p. 161).

Sec. 1328 R. L. 5412 C. O. S. 1921.

Applied:

Midland Savings Assn. vs. Improvement Co. 34 Okla. 564, 126 Pac. 720.

228. Shareholders May Withdraw. Any shareholder or the legal representative of any shareholder wishing to withdraw from such building and loan association shall have the right and power to do so at any time. In order to perfect such withdrawal, it shall be necessary for such person to surrender to such made in writing by such person of such building and loan association, or of or upon any agent of such association, such person shall, if judgment be obtained, be entitled to recover in addition to the amount of judgment an all costs of his action, a reasonable attorney's fee, to be fixed by the court rendering judgment. (L. 1905, p. 162).

1327 R. L. 5411 C. O. S. 1921.

Note: Sec. 11 C. 28 L. 1925 appears to have repealed a part of this section regarding withdrawal.

Partial withdrawals not permitted. See Sec. 172, this compilation.

229. "Resident" Defined. Whenever the words "resident of this state" are used in this article, they shall be construed to include all persons who have real estate in this state pledged as security for the payment of any obligation to such building and loan association. (L. 1905, p. 163).

1330 R. L. 5414 C. O. S. 1921.

230. Unlawful Soliciting—Penalty. Any person who shall represent or solicit business for any building and loan association in this state which is not authorized to transact business herein, shall be guilty of a misdemeanor, and upon conviction shall for the first offense be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, and upon conviction of the second offense shall be punished by a fine of not less than two hundred and fifty dollars and not more than five hundred dollars, and shall be committed to jail for a period of not to exceed one year. (L. 1905, p. 163). 1331 R. L. 5415 C. O. S. 1921.

231. Transacting Business Without Certificate. Any building and loan association which shall transact business in this state without having first obtained a certificate of authority therefor as provided in this article, shall forfeit any pay to the State of Oklahoma, to be recovered in a civil action in the name of the State of Oklahoma, the sum of five thousand dollars. (L. 1905, p. 163.) 1332 R. L. 5416 C. O. S. 1921.

Note: C. 28 L. 1925 seems to amend this section so far as obtaining permit only.

232. Compliance Required. All foreign building and loan associations doing business in this state shall comply with the requirements of this article; and no building and loan association shall be

permitted to transact business in this state until certificate of authority has been obtained in accordance with the provisions hereof. (L. 1905, p. 163.) 1333 R. L. 5417 C. O. S. 1921.

Note: C. 28 L. 1925 has changed this section and permit must be obtained from Board.

233. Construction of Article. This article shall not be construed to apply or repeal or effect the laws of the State of Oklahoma regarding domestic building and loan associations: Provided, that if any domestic building and loan association carries on its business outside of the county in which its principal place of business is located, then such association shall be governed and regulated by this article. (L. 1905, p. 164). 1334 R. L.

Note: This law with regard to Foreign Corporations is greatly modified and control thereof is fixed by law in the Board.
C. 28 L. 1925.

BLUE SKY LAW

234. Speculative Securities. The term "Securities" as used in this Act shall be taken to mean stock certificates, shares, bonds, debentures, certificates of participation, membership contracts, contracts or bonds for the sale and conveyance of land on deferred payments or installment plan, or other instrument in the nature thereof by whatsoever name known or called and including the capital stock of any and all corporations offering the same for sale. The term "speculative securities" as used in this Act shall be taken to mean and include, (1) All securities to promote or induce the sale of which, profit, gain or advantage unusual in the ordinary course of legitimate business is in any way advertised or promised; (2) All securities for promoting the sale of which a commission of more than ten per cent is offered or paid; (3) All securities into the specified par value of which the element of chance or hazard of speculative profit or possible loss equal or predominate over the element of reasonable certainty, safety, and investment; (4) All securities the value of which materially depends on proposed or promised future promotion development rather than on present tangible assets and conditions; (5) The securities of any enterprise, association, partnership or corporation, which has included or proposes to include in its assets a material part thereof, patents, formula, good-will, promotion or intangible assets, or which has issued or proposes to issue a material part of its securities in payment for formula, patents, good-will, promotion or intangible assets; (6) Securities made or issued in furtherance of promotion any enterprise or scheme for the sale of unimproved or undeveloped land on any deferred payments or installment plan, when such lands are not situated in the State of Oklahoma and the value of such securities materially depends on the future performance of

any stipulation by the promoters of such enterprise to furnish irrigation or transportation facilities, or other value enhancing utility or improvement. The term "speculative enterprise" as used in this Act shall be taken to mean any business undertaking, project, venture or activity for the promotion or furtherance of which "speculative securities," as herein defined, are made, issued, sold, or offered for sale. For the purpose of carrying out the provisions of this Act, there is hereby created a Commission, to be known as the State Issues Commission, composed of the Bank Commissioner, who shall be chairman thereof, the Secretary of State and State Auditor. The said Commission shall have authority to appoint, with the approval of the Governor, a secretary, who shall receive a salary of \$2,5000.00 per annum, payable monthly.

Sec. 2270 C. O. S. 1921, L. 1919, p. 77.

235. Sale of Securities. It shall be unlawful for any person, co-partnership, association, or corporation, hereinafter called the promoter, either as principal, or through brokers or agents, to sell or offer for sale or by means of any advertisements, circulars, or prospectus, or by any other form of public or private offerings, to attempt to promote the sale of any speculative securities in this State, including capital stock of such promoter, unless there first shall have been filed with and approved by the said Commission, (1) a copy of the securities so to be promoted; (2) a statement in substantial detail of the assets and liabilities of the person or company making and issuing such securities and of any person or company guaranteeing the same, including specifically the total amount of such securities and of any securities prior thereto in interest or lien, authorized or issued by any such person or company; (3) if such securities are secured by mortgage or other lien, a copy of such mortgage or of the instrument creating such lien, and a competent appraisal of valuation of the property covered thereby, with a specific statement of all prior liens thereon if any; (4) a full statement of facts showing the gross or net earnings, actual or estimated, of any person or company making and issuing or guaranteeing such securities, or of any property covered by mortgage or lien; (5) all knowledge or information in the possession of such promoter relative to the character or value of such securities, or of the property or earning power of the person or company making and issuing or guaranteeing the same; (6) a copy of any general or public prospectus or advertising matter which is to be used in connection with such promotion, and no such prospectus or advertising matter shall be used unless the same has been filed hereunder; (7) the names, addresses and selling territory in this State of any agents by or through whom any such securities are to be sold, and no such agents shall be employed unless such statement with respect to them has been filed hereunder, and there shall have been paid to the said Commission a registration fee of Five Dollars

(\$5.00) for each such agent. The payment of such fee shall be payment in full of all fees for registration of such agent until and including the first day of March next following; (8) the names and address of such promoter, including the names and addresses of all partners, if the promoter be a partnership, and the names and addresses of the directors or trustees, and of any person owning ten per centum, or more, of the capital stock, if the promoter be a corporation or association; (9) a statement showing in detail the plan on which the business or enterprise is to be conducted; (10) the articles of co-partnership or association or corporation and all other papers pertaining to its organization, if the securities be insured or guaranteed by a co-partnership or unincorporated association; (11) a copy of its charter and by-laws if the securities be issued or guaranteed by a corporation; (12) a filing fee of Twenty-five Dollars (\$25.00).

2271 C. O. S. 1921, L. 1919 p. 77.

236. Permit. If the said Commission shall decide that the sale of stocks or bonds will be fairly and honestly conducted, both to the corporation and to the public, such permit shall be granted, provided that the commissions, promotion and other incidental expenses, exclusive of the exempted expenses mentioned in Section 1 of this Act, shall not be more than fifteen per cent (15%) of the price at which such stock or bonds is to be sold as shown by the application or amended application. Provided, that where any proposed corporation has already sold its stock or bonds or a part thereof, or any part thereof has been subscribed at the time this Act shall take effect, this Act shall not affect stocks or bonds previously sold or subscribed nor any contracts made in reference to same; but if any of the stock or bonds of said proposed corporation remains unsold or unsubscribed, said corporation shall, nevertheless, be entitled to a permit upon complying with the other conditions of this Act, including the future sale or subscription of any of its stock or bonds. The commission or promotion fee shall be paid to the agent or promoter as the stock or bonds are sold by him and paid for by the purchaser. The stock or bonds shall be considered as paid for when paid for in cash or property or labor of par value thereof. No permit shall be granted unless there shall appear upon the subscription lists and contracts of such corporation or proposed corporation, in bold type, the amount of the commissions, promotion fees and other estimated expenses incident to the sale of such stock or bonds and the interest which the officer, agent, employee or promoter selling or contracting to sell such stock or bonds has in such sale; nor shall such permit be granted until the applicants thereof have entered into a bond for not less than One Thousand Dollars (\$1,000.00) nor more than One Hundred Thousand Dollars (\$100,000.00), the same to be fixed by the said Commission at not less than ten per cent (10%) of the stock or bonds

proposed to be issued. The said bond shall be payable to the said Commission, conditioned that the facts set forth in the application for such permit, and the proof and statements offered to the said Commission, upon which the application is based, are true, and that they comply with the provisions of this Act in the sale of the stock or bonds of such corporation or proposed corporation. Said bond may be made with individual sureties or a surety company authorized to do business in the State of Oklahoma and the bond shall be approved by the said Commission.

2272 C. O. S. 1921, L. 1919, p. 77.

237. Civil Remedies. Any person who shall be induced to purchase any stock or bonds of any corporation or proposed corporation by the officers, agents, employees, promoters or trustees, by reason of any misrepresentation of any material fact concerning such stock or bonds, such person or persons shall have the right to bring suit upon the bond above provided for, and such bond shall be subject to, and security for such person so purchasing the stock or bonds provided that such person shall not be entitled to recover more than the money paid, or the actual value of the property given, or the labor performed, in exchange of such securities with legal interest from the date of the payment or the performance of the legal services, or the transfer of the property. One or more recoveries upon such bond shall not vitiate the same, but it shall remain in full force and effect, but no recoveries upon such bond shall ever exceed the full amount of same, and upon suits being filed in excess of the amount of same, the said Commission may require a new bond, and if the same is not given within thirty days they may cancel the permit herein provided for. Whenever any permit has been issued, the corporation or persons receiving the same shall file a list of the names of their or its authorized officers, agents and employees, and the post office addresses of each; and, in case of change of any of its officers, agents or employees, it shall file a list of such changes with the said Commission.

2273 C. O. S. 1921, L. 1919, p. 77.

238. Foreign Corporations. Every foreign corporation before selling or offering for sale and speculative securities, in this State, shall also file its written consent, irrevocable, that actions may be commenced against it in the proper courts of any county in this State in which cause of action may arise or the plaintiff may reside, by the service of process on the Secretary of State, and stipulating and agreeing that such service of process on the Secretary of State shall be taken and held in all courts, to be as valid and binding as if due service had been made upon the company itself, and shall be authenticated by the seal of said foreign corporation, and shall be accompanied by a duly certified copy of the order or

resolution of the board of directors, trustees, or managers of the corporation authorizing the said secretary and president to execute the same.

2274, C. O. S. 1921, L. 1919, p. 77.

239. Examinations. It shall be the duty of the said Commission, as soon as is practical, to examine the statement and documents so filed and if said Commission shall deem it advisable, they shall make, or have made, a detailed inspection, examination, audit and investigation of the affairs of the makers or guarantors of such securities which said inspection, examination, audit and investigation shall be at the promoter's expense. As a part of the aforesaid inspection, examination, audit and investigation, the said Commission may cause an appraisal to be made of the property of the maker or guarantor, including the value of patents, formula, good-will, promotion, and intangible assets, and shall furnish a full and complete statement or report of his inspection and investigation aforesaid to the said Commission. The said Commission shall, within ten days thereafter, give the promoter a hearing if he so desires. If the said Commission finds no legal objection to the enterprise, or securities, it shall note in a book to be kept by the said Commission for that purpose that said person, co-partnership, association or corporation has complied with Section 2 of this Act. But, if from the statements, papers and documents on file, and the investigations and report of the said Commission, or from other evidence submitted, it shall appear, the said Commission shall find (1) that the makers or guarantors of said securities are insolvent, in failing circumstances, or are untrustworthy; (2) or that the promoters' plan of business is unfair, inequitable, dishonest or fraudulent; (3) or that the promoters' plan of business does not adequately secure the investors against the unlawful dissipation or mis-application of the funds of the enterprise or business; (4) or that the promoters' literature or advertising is misleading and calculated to deceive purchasers or investors; (5) or that the securities offered, or to be offered, or issued, in payment for property, patents, formula, good-will or promotion and intangible assets are in excess of the reasonable value thereof; (6) or that the enterprise or business of the promoter is unlawful or against public policy; (7) or is a mere scheme of a promoter or promoters to get rich quick at the expense of the purchasers of the aforesaid securities; the said Commission shall reduce its said findings to writings and attest the same by the signature of the chairman and secretary thereof. Notice of such finding, or findings, shall immediately be given to the applicant by registered mail. And it shall thereafter be unlawful for the promoter or any broker or agent of said promoter to sell, offer for sale, or by means of any advertisement, circular or prospectus, or by any other form of public offering to attempt to promote the sale of any such speculative security, or securities, in this State.

2275 C. O. S. 1921, L. 1919, p. 77.

240. Investigation. The said Commission shall at any time have the authority and jurisdiction to investigate the affairs of any speculative enterprise, the securities of which are being sold or offered for sale in this State, and after giving the promoters a hearing, may if the evidence warrants, make any of the adverse findings enumerated in Section 2775 of this Act, and it shall thereafter be unlawful for any person, co-partnership, association or corporation to sell, offer for sale, or by means of any advertisement, circular, or prospectus or by any form of public offering to attempt to promote the sale of the securities of such speculative enterprise in this State.

2276, C. O. S. 1921, L. 1919, p. 77.

241. Actions to Vacate Findings. Any person, co-partnership, association or corporation being dissatisfied with any finding, or findings, of the said Commission made in accordance with the provisions of this Act, may, within thirty days from the making thereof, commence an action in any court of competent jurisdiction against said Commission as defendant, to vacate and set aside said finding, or findings, on the ground that the said findings are unjust or unreasonable. The rules of pleading and procedure in such action shall be the same as are approved by law for the trial of equitable actions in the district courts of this State and on the hearing, the judge of said court may set aside, modify or confirm said findings as the evidence and the rules of equity may require. Appeals may be taken from the decision of the district court to the Supreme Court by either party in the same manner as is provided by law in other civil actions. Pending any such action, the said findings of said Commission shall be prima facie evidence that they are just and reasonable and that the facts found are true, and pending any such action the said findings of the said Commission shall remain in full force and effect. If no action be brought to set aside said findings within thirty days, the same shall become final and binding.

2277 C. O. S. 1921, L. 1919, p. 77.

242. Amendments. No amendment of the charter, articles of incorporation, constitution or by-laws of any such corporation or the articles of association or by-laws of any unincorporated association subject to this Act, shall become operative until a copy of the same has been filed with the said Commission, as provided in regard to the original filings of charters, articles of incorporation, or association, constitution and by-laws, and it shall be unlawful for any such person, co-partnership, association or corporation to transact business on any other plan than that set forth in the statement required to be filed by Section 2 of this Act, or to make, issue, sell or offer for sale any "security" or "securities" required to be filed by Section 2 of this Act, until a written statement showing in

full detail the proposed new plan of transacting business and a copy of the proposed new "security" or "securities" shall have been filed with the said Commission, in like manner as provided in regard to the original plan of business and proposed "security" or "securities."

2278 C. O. S. 1921, L. 1919, p. 77.

243. Securities Not Included. The provisions of this Act shall not apply to, (a) securities of the United States, or any foreign government; or of any state or territory; or of any county, city, township, school district or other public taxing sub-division of any state or territory of the United States or any foreign government; (b) securities of public or quasi-public corporations, the issues of which are now regulated by the public service commission or board of similar authority of any state or territory of the United States, or securities senior thereto; (c) securities of state or national banks or trust companies, mortgage companies dealing exclusively in bona fide mortgages on farm and city real estate, or building and loan associations authorized by the State Banking Board to do business in this state; (d) securities of any domestic corporation organized without capital stock, for religious, charitable or reformatory purpose. The provisions of this bill shall not apply to the sale of stock or bonds where the same are sold for cash and no commission or fee is paid, directly or indirectly, for the sale of same, and no expense for such sale is charged either to the company of issue or the purchaser of such securities.

2279 C. O. S. 1921, L. 1919, p. 77.

244. Accounts to be Kept. The general accounts of every person, co-partnership, association or corporation, issuing or guaranteeing any securities subject to the provisions of this Act, shall be kept in a business like and intelligent manner and in sufficient detail so that the said Commission or their authorized representative can ascertain at any time the financial condition of such person, co-partnership, association or corporation, and the books of account and affairs of any such person, co-partnership, association or corporation, shall be subject to examination by the said Commission or by their assistants, accountants or examiners, at any time said Commission shall deem it advisable, and in the same manner as is now provided for by the examination of state banks; and such person, co-partnership, association or corporation shall pay the actual traveling and hotel expenses of the assistant, accountant or examiner of the said Commission when he is absent from the Capital of the State for the purpose of making such examination. And it is provided further, that every person, co-partnership, association, or corporation making or guaranteeing any securities subject to the provisions of this Act, shall file at the close of business December 31st, of each year, and at such other times as may be required by the

said Commission, a statement certified by the oath of some person having actual knowledge of the facts therein stated, setting forth, in such form as may be prescribed by said Commission, the financial condition, amount of property and liabilities of such person, co-partnership, association or corporation, and such other information as the said Commission may require. Each statement shall be accompanied by a filing fee of Two Dollars and Fifty Cents, (\$2.50). All fees herein provided for shall be collected by the said Commission and shall be turned into the State Treasury. It shall be unlawful for any person, partnership association, or corporation subject to the provisions of this Act, failing or refusing to comply with the provisions of this Section within ten days after compliance is required, to thereafter sell or offer for sale in this State any speculative stock which said person, partnership, association or corporation is selling or offering for sale in this State.

2280 C. O. S. 1921, L. 1919, p. 77.

245. Special Investigations. The said Commission shall have power upon reasonable notice either upon their own initiative or upon complaint of any responsible person, to make or have made such special inspection or investigation as they may deem necessary in connection with the promotion, sale, disposal, or offering for sale or disposal in this State, or any certificates, shares, stocks, bonds, securities, contracts, or contracts or bonds for deeds, to determine whether the same constitute a violation of this Act, or any other statute of this State, by any individual, co-partnership, corporation, or association, promoting, offering, selling or pledging the same; and the said Commission, their assistants or deputies, shall have the power to issue subpoenas and process compelling the attendance of any person and the production of any papers or books for the purposes of such investigation and examination, and shall have power to administer an oath to any person whose testimony may be required on examination or investigation; and any person who shall refuse to obey any such subpoena or make answer to any competent and material question propounded to him by the said Commission shall, upon conviction in any court of competent jurisdiction, be deemed guilty of a misdemeanor, and fined in any sum not exceeding Five Hundred Dollars (\$500.00) or be punished by confinement in the County Jail for not more than ninety days, or both such fine and imprisonment. Upon the conclusion of such investigation, the said Commission may make findings of any fact touching the matter or matters under investigation, and such findings shall be prima facie evidence of the truth of the matters therein found by the said Commission in any action, either civil or criminal, instituted under any of the laws or statutes of this State against the person, persons, partnership, corporation or association. The notice herein provided for may be given by registered letter mailed

to the last known address of person or persons or corporations to be investigated and the said Commissioner's certificate shall be sufficient evidence of such notice and the mailing thereof.

2281 C. O. S. 1921, L. 1919, p. 77.

246. False Statements. Any person who shall knowingly make or file or cause to be made or filed with the said Commission any statement, document, circular, advertisement or prospectus, required to be filed by this Act, which is false in any material respect or matter, shall be deemed guilty of a felony, and on conviction in any court of competent jurisdiction punished by a fine of not less than One Hundred Dollars (\$100.00) or more than Five Thousand Dollars (\$5,000.000) or by imprisonment in the State penitentiary for not less than one nor more than five years, or by both such fine and imprisonment.

2282, C. O. S. 1921, L. 1919, p. 77.

246a. Penalty—Felony.

Any person, partnership, association or corporation who shall commit in this State any act declared unlawful by Section two, nine or eleven of this Act, shall be deemed guilty of a felony and on conviction in any court of competent jurisdiction be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00), or by confinement in the Oklahoma State penitentiary for a term of not less than one nor more than seven years.

2283, C. O. S. 1921, L. 1919, p. 77.

247. Private Securities Not Included. This Act shall not apply to the owner of any speculative security who is not the maker or issuer thereof, who shall acquire and sell the same for his own account in the usual and ordinary course of business and not for the direct or indirect promotion of any enterprise or scheme within the purview of this Act, providing that such ownership in good faith. Repeated or successive sales of any such speculative security or securities shall be prima facie evidence that the claim of ownership is not bona fide, but is a mere shift or device to evade the provisions of this Act.

2284, C. O. S. 1921, L. 1919, p. 77.

248. False Entry. Any person who shall knowingly or willingly subscribe to, or make, or cause to be made any false statements or false entry in any book of account or any person, co-partnership, association or corporation, subject to the provisions of this Act, or exhibit any false paper with the intention of deceiving any person authorized to examine into the affairs of such person, co-partnership, association, or corporation, or shall make or publish any

false statement of the financial condition of any person, co-partnership, association or corporation subject to the provisions of this Act, or shall knowingly make any false statements materially affecting the value of the stocks, bonds or other securities offered for sale by any such person, co-partnership, association or corporation, shall be deemed guilty of a felony and upon conviction thereof shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00), or shall be imprisoned not less than one year nor more than ten years in the State penitentiary.

2285, C. O. S. 1921, L. 1919, p. 77.

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